

United States Court of Appeals
for the
District of Columbia Circuit



**TRANSCRIPT OF
RECORD**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

APRIL TERM, 1904.

No. 1361.

CHARLES F. CONSAUL AND IDA M. MOYERS, ADMINISTRATORS OF GILBERT MOYERS, DECEASED, APPELLANTS,

vs.

HORACE S. CUMMINGS, ADMINISTRATOR OF GEORGE B. EDMONDS, DECEASED.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia

CHARLES F. CONSAUL ET AL., Administrators, Appel-
lants,
vs.
HORACE S. CUMMINGS, Administrator, &c.

} No. 1361.

a Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of
the Estate of George B. Edmonds, De-
ceased, Complainant,
vs.
CHARLES F. CONSAUL and IDA M. MOYERS,
Administrators of Gilbert Moyers, De-
ceased, Defendants.

} In Equity. No. 20802.

UNITED STATES OF AMERICA, { ss :
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 Bill.

Filed September 16, 1899.

In the Supreme Court of the District of Columbia, Holding an
Equity Court for said District.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Deceased,
Complainant,
vs.
GILBERT MOYERS, Defendant.

} Equity. No. 20802.

To the justice holding said equity court:

The complainant, Horace S. Cummings, respectfully shows unto
the court as follows, to-wit:

1. The complainant is a citizen of the United States and a resi-
dent of the District of Columbia, and brings this suit as the admin-
istrator of the estate of George B. Edmonds, deceased.

2. The defendant Gilbert Moyers, is also a citizen of the United States and a resident of the District of Columbia, and is sued herein in his own right.

3. The complainant was, on the 22nd day of August, 1899, duly appointed administrator of the estate of the said George B. Edmonds, deceased, late a resident of the State of Virginia, by the county court of Fairfax county, State of Virginia, and duly qualified as such administrator.

4. On the 6th day of February, 1888, complainant's intestate and the defendant entered into an agreement in writing, a true copy of which is as follows:

2

"Agreement."

"Know all men by these presents, in duplicate, that the undersigned, attorneys of Washington, D. C., are special partners in the prosecution of the cases named in the schedule hereto attached now pending before the United States Court of Claims and the Congress of the United States, the fee agreed to be paid by the client in each case being the percentum of whatever may be recovered as is stated herein, and the agreement between the undersigned being that each shall have half of said fees and that each shall pay one-half of the expense incident to the prosecution of same, which expense is not to exceed two and a half per cent. of the amount that may be allowed upon said claim.

"And it is hereby agreed and understood that the said Gilbert Moyers shall represent and be associated with me in the prosecution of said claims before the Court of Claims and the Congress of the United States as joint attorney of record.

"It is hereby understood and agreed that the undersigned Gilbert Moyers is to advance the expenses incident to the prosecution of said claims.

Witness our hands this 6th day of February, 1888.

(Signed)

(Signed)

GILBERT MOYERS.

GEO. B. EDMONDS."

5. Among the cases named in the schedule attached to said agreement were those set forth in the schedule or list attached to this bill of complaint, made a part hereof and marked "Complainant's Ex. No. 1," which said schedule or list shows the name of the claimant in each case, when settled, the amount of his claim and the
3 amount due the said intestate's estate and the said defendant as their fees therein.

6. In pursuance of the terms of the said agreement or articles of partnership, between said intestate and the said defendant, the cases or claims mentioned in the preceding paragraph hereof, and others hereinafter mentioned, were prosecuted, judgments were rendered therein by the said Court of Claims and the Congress of the

United States by its act of March 3, 1899, appropriated the money to pay said judgments, and the said Gilbert Moyers collected the money due on all of said judgments, except those hereinafter mentioned. Since the said 3rd day of March, 1899, the said defendant has collected on account of the said judgments, as shown in Complainant's Ex. No. 1, the sum of \$56,756, of which said sum there was due as fees to the defendant and said intestate's estate, the sum of \$26,380.25, which said sum of \$26,380.25 was distributable, under the terms of the said co-partnership agreement, one-half to the said defendant and one-half to the complainant, as administrator of the estate of said deceased (the said intestate having died prior to said March 3, 1899) subject to the right of the said defendant to receive such sum or sums of money as he may have rightfully expended in the payment of the legitimate expenses incident to the prosecution of said cases.

7. Complainant further shows unto the court that although it was the duty of the said defendant as surviving partner and as trustee, to account to the complainant as administrator of said intestate for the share of fees due the estate of said intestate under the partnership agreement as aforesaid, the said defendant has wrongfully and fraudulently failed and refused and still continues

4 to wrongfully and fraudulently fail and refuse to render any account whatever to the complainant in the premises, as will appear from the letters of the said defendant and his attorney to complainant's attorney hereto attached, made a part hereof, and marked respectively "Complainant's Exs. Nos. 2, 3 and 4," and although complainant has made frequent and repeated demands upon said defendant for such accounting.

8. Complainant further avers that although it was the duty of the said defendant when he collected said partnership funds as aforesaid to deposit said funds as trust funds in a proper bank or banking institution prior to their distribution, he wrongfully and unlawfully deposited said trust moneys so received and collected by him as aforesaid, amounting in the aggregate to the sum of \$26,380.25 as aforesaid in one or more banks, banking institutions or trust companies in the District of Columbia in his own name and to his own personal credit, and thereby commingled and confused the said trust fund with his own moneys unlawfully and illegally as aforesaid. What, if any, disbursements the defendant has made in said cases to the holders and owners of the judgments therein of the sum or sums of money due them after the deduction of the fees aforesaid, the complainant does not know, nor will the defendant advise him with respect thereto, although complainant is advised that said intestate's estate would be legally liable for any misappropriation or conversion by said defendant of any sum or sums so collected by him on account of said judgments, because of the partnership relation existing between said intestate and

5 said defendant.

9. Complainant further shows unto the court that the said

defendant is wholly insolvent, except for the possession by him of the money hereinbefore mentioned, and other moneys similarly received by him for and on account of fees for services rendered by him in association with others in similar cases to those hereinbefore mentioned, and in respect to which the defendant is now under suit in a large number of cases now depending in this court, as will appear by the records thereof, and the moneys involved in which are, as the complainant is informed and believes and therefore avers, similarly on deposit in defendant's name in one or more banks, banking institutions or trust companies in the said District of Columbia, and subject to his individual check, and therefore liable to be dissipated before an accounting can be had between him and the complainant, and a receiver appointed, as hereinafter prayed, and accordingly in such hazard as to be probably beyond reach of the complainant in event of an adjudication in his behalf herein; and further that the said defendant is largely in debt, as is evidenced by the pendency of said large number of suits depending in this court, and by reason of said partnership or trust fund being on deposit as aforesaid to his personal credit, said fund is subject to attachment or garnishment and execution at the suit of his creditors.

10. Complainant further shows that among the judgments of said Court of Claims appropriated for in said act of Congress were those in the following cases, which are included in said partnership agreement, but which are not included in Complainant's Ex.

6 No. 1: J. A. Burgwyn, administrator of Dorsey S. Deloatch, \$315; William T. Fauber, \$375; and Richard Mayse, \$880.

A Government warrant has been issued to pay said judgment in favor of said Burgwyn and is now in the hands of the said defendant, but has not been collected by him. The judgments in favor of the said William T. Fauber and the said Richard Mayse have not yet been paid, nor have warrants, as complainant is informed and believes and therefore charges, been issued to pay the same, but complainant is advised and believes and therefore avers that warrants will shortly be issued by the Government to pay said judgments. There are payable on account of fees as aforesaid to defendant and said intestate's estate on account of said judgments from 40 per cent. to one-half of the amount of said judgments, which said fees are distributable in accordance with the terms of the said partnership agreement.

11. Complainant is advises and believes and therefore avers that he has no adequate remedy at law in the premises and he therefore seeks the aid of this honorable court.

The premises considered your complainant therefore prays:—

1. That the writ of subpoena may issue from this court commanding the defendant to appear and answer the exigencies of this bill of complaint.

2. That a temporary restraining order be issued by this court to the said defendant, Gilbert Moyers, restraining and enjoining him during the pendency of this cause, from collecting or receiving any

7 money or moneys, or cashing any drafts or warrants issued in any cause or causes pending in the Court of Claims of the United States, in which the complainant, as administrator of the estate of the said George B. Edmonds, deceased, is in any wise interested, or to the fees in which the said partnership is entitled, or for, or on account of which, said partnership would be legally liable to any third person or persons; and also restraining said defendant, during the pendency of this cause, from withdrawing, by check or otherwise, any money or moneys which are on deposit in any bank, banking institution or trust company in the District of Columbia, in his, the said defendant's name, or to his, the said defendant's, personal credit, or to his, the said defendant's credit, as trustee, agent, attorney or otherwise.

3. That a proper person may be appointed to receive, collect and get in, during the pendency of this cause, all of the outstanding debts and money and evidences of debt and warrants or drafts, due to or on account of the said partnership business or concern, or due to the complainant as administrator as aforesaid, or for or on account of which said partnership would be legally liable to any third person or persons; and also to take possession of all money, evidences of debt, warrants and drafts, effects and property of or belonging to said partnership or in or to which said partnership is in anywise interested.

4. That the defendant may be ordered to deliver up to such person all of the money, evidences of debt, warrants and drafts, effects and property of or belonging to said partnership, or in which said partnership is in anywise interested, in his possession or
8 power, or for or on account of which said partnership would be legally liable to any third person or persons; and also to pay over to such person a sufficient sum of money to cover all money or moneys collected by him on account of said partnership, or for or on account of which said partnership is legally liable; and also to deliver to such person all books of account, accounts, receipts, vouchers, and papers of or belonging to said partnership; and that the said defendant may be restrained, by the order and injunction of this court, during the pendency of this cause, from demanding, receiving, or obtaining possession of any debts, moneys, evidences of debt, warrants and drafts, or property due or belonging to said partnership, or for or on account of which said partnership is legally liable to any third person or persons; and also from, in any manner, intermeddling with the moneys, books, evidences of debt, warrants and drafts, papers, or accounts of said partnership.

5. That all necessary accounts may be taken by and under the decree and direction of this court of all the said partnership transactions between the complainant's intestate and the defendant, and all transactions of the said defendant on account of said partnership after the death of the said intestate, and that what shall appear thereon to be due from the defendant may be decreed to be paid by him.

And for such other and further relief as to the court may seem proper in the premises.

The defendant to this bill of complaint is Gilbert Moyers, whose address is No. 720 Seventeenth St. northwest, Washington, D. C.

HORACE S. CUMMINGS,

Administrator George B. Edmonds, Deceased, Complainant.

DAVIS & TUCKER,

Solicitors for Complainant.

9 DISTRICT OF COLUMBIA, ss:

I do solemnly swear that I have read the foregoing bill of complaint by me subscribed, and know the contents thereof, and that the facts therein stated upon my personal knowledge are true and those stated upon information and belief I believe to be true.

HORACE S. CUMMINGS.

Subscribed and sworn to before me this 16th day of September, A. D. 1899.

J. R. YOUNG, *Clerk,*
By R. J. MEIGS, JR., *Ass't Clerk.*

10

COMPLAINANT'S EXHIBIT No. 1.

No. & date of warrant.	Name of claimant.	Amount of judgment.	When paid.	Amount of fee.
# 7643 May 8, '99..	H. T. Cate	\$835.00	June 14, '99	\$417.50
# 8071 May 17, '99..	J. C. Tappan, adm'r.	2105.00	May 24, '99	1052.50
# 6863 Ap'l 1, '99..	R. Butler.....	122.00	Ap'l 12, '99	61.00
# 9575 June 26, '99..	J. P. Davidson.....	1830.00	.....	915.00
# 7158 Ap'l 15, '99.	C. Uble, adm'r.....	585.00	May 11, '99	297.50
# 8289 June 1, '99..	W. R. Welborn.....	250.00	June 17, '99	125.00
# 7018 Ap'l 10, '99 ..	J. Gall	704.00	Ap'l 18, '99	352.00
# 6967 Ap'l 7, '99 ..	S. Bagnell, adm'r....	995.00	Ap'l 10, '99	497.50
	John Ehs.....	627.00	Aug. 9, '99	313.50
# 8036 May 16, '99..	R. M. Johnston.....	2105.00	June 24, '99	1052.50
# 7279 Ap'l 20, '99 ..	Anna Hunt, adm'r....	19,445	Ap'l 21, '99	9,722.25
# 8183 May 24, '99..	Mrs. H. E. Ladd.....	985.00	June 21, '99	492.50
# 7377 Ap'l 26, '99..	J. Harding, adm'r....	1950.00	May 27, '99	975.00
# 7985	W. Williams, adm'r..	237.00	June 10, '99	113.50
# 7580 May 4, '99..	N. K. Thornton.....	670.00	May 29, '99	335.00
# 6486 M'ch 17, '99..	S. Fitzhugh, adm'r...	19975.00	March 17, '99	7990.00
# 7220 Ap'l 18, '99 ..	J. R. Hornbaker.	330.00	Ap'l 27, '99	165.00
		\$53,750.00		\$24,877.25
11	Forward.....	53,750.00	.....	24,877.25
# 7294 Ap'l 22, '99 ..	T. W. Russell.....	772.00	May 19, '99	386.00
# 6856 Ap'l 1, '99...	M. C. Baylor	1144.00	Ap'l 8, '99	572.00
# 6871 Ap'l 1, '99...	J. L. Roberts.....	395.00	Ap'l 8, '99	197.50
# 7320 Ap'l 14, '99..	Geo. Show.....	695.00	May 1, '99	347.50
		\$56,756.00		\$26,380.25

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COMPLAINANT'S EXHIBIT No. 2.

WASHINGTON, D. C., July 21, 1899.

DEAR SIR: Owing to prostration from the heat I have not been able to complete the work on those Edmunds cases. I have got it well in hand however, and will have a statement ready by Thursday next, possibly Wednesday.

Yours truly,

GILBERT MOYERS.

(On back of postal:)

JOHN W. BUTTERFIELD,
3rd St. N. W., Bet. D. & E. Sts., City.

(2 stamps.)

COMPLAINANT'S EXHIBIT No. 3.

Law office of Gilbert Moyers.

WASHINGTON, D. C., Aug. 3, 1899.

John W. Butterfield, Esq., Washington, D. C.

DEAR SIR: I regret to inform you that owing to my health not being the best for the last week or so I have not yet completed that statement in the Edmunds matter, but have made considerable progress and will be through with it this week, I think.

Again I want Mr. Chaney to represent me in this matter and he has not yet returned. Received a telegram from him indicating he would be here the first of next week then he can go over the matter with you and reach at some conclusion.

Yours truly,

GILBERT MOYERS.

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COMPLAINANT'S EXHIBIT No. 4.

1320 F. St. N. W., Sept. 11, 1899.

Mr. John W. Butterfield, 419 4th St. N. W.

DEAR SIR: I saw Col. Moyers this afternoon about the matter you were here to see me about this morning.

I have no doubt that the matters can be satisfactorily adjusted, and amicably done, but he says that he is absolutely unable to gather together his data this week, on (rest of letter torn off).

14

Answer.

Filed September 20, 1899.

In the Supreme Court of the District of Columbia, Holding an Equity Court for said District.

HORACE S. CUMMINGS, Administrator of the Estate of George B. Edmonds, Complainant,
vs.
GILBERT MOYERS, Defendant.

Equity. No. 20802.

To the justice holding said equity court the defendant, Gilbert Moyers, in answer to the bill of complaint herein respectfully shows:

1. This defendant admits the averments of the first, second and third paragraphs of said bill.

2. For answer to the fourth paragraph of said bill the defendant admits that on the sixth day of February, 1888, he and the said George B. Edmonds, deceased, entered into an agreement in writing of the general character of the paper which is set out in the said fourth paragraph, but whether the said copy is a true copy of said original agreement this defendant does not know, and he calls for proof thereof;

3. For answer to the fifth paragraph this defendant denies that the cases named in the schedule attached to said agreement were those set forth in the schedule or list attached to this bill of complaint and marked Exhibit No. 1, and says that upon the best of his recollection and belief the only cases named in said Exhibit No. 1, which were among the cases specified in this schedule attached to said agreement of February 1888, were the cases in which

15 J. C. Tappan, administrator and S. Fitzhugh, administrator, were claimants respectively, and in the other cases set forth in the said Exhibit No. 1, said George B. Edmonds never had any interest whatever, and the same were not included in the schedule referred to in the said agreement of February 1888.

4. For answer to the sixth paragraph, this defendant, while denying that the said Exhibit No. 1 sets out the true list of the cases covered by the said agreement, admits that the said claims were prosecuted by him, that judgments were rendered therein by the Court of Claims and that the Congress of the United States appropriated for the payment of the same. He further admits that he has collected said judgments, but he denies that from the same there was due any sum whatever to the complainant administrator, or that any part of the said sum of twenty-six thousand three hundred and eighty dollars and twenty-five cents (\$26,380.25) was payable to the representative of the said George B. Edmonds under the terms of

said agreement, for that, he says that in the year 1892 and prior thereto after the making of said agreement, the said George B. Edmonds being in need from time to time of money, obtained from this defendant on account of the prospective fees to be earned under said agreement, various considerable sums of money, amounting in all to the sum of about fifteen hundred dollars (\$1500.00) and that thereafter, to-wit, in the year 1892, this defendant paid to the said George B. Edmonds, and the latter received, the further sum of five hundred dollars, (500.00) in full settlement of all claims and demands which he had, or might thereafter have, under the said agreement of February 1888, and the said
16 George B. Edmonds then and there, at the time of the receiving of said money agreed to return to this defendant the agreement of February 1888 to his hands endorsed in such manner as to show that full settlement had been made with him of all his claims thereunder, and this defendant says further that from this time forward until his death which occurred, towit: on the — day of — the said George B. Edmonds never pretended or asserted to the knowledge of this defendant any claim whatever upon him for the right or interest in the said various cases embraced within the schedule attached to said agreement of February 1888, and defendant further says that at the time of the payment of said sum of five hundred dollars (\$500.00) in 1892 as aforesaid, it was well known to both the said George B. Edmonds and to this defendant that a long time must elapse before the said claims, could be allowed and paid, and the value of said claims and the fees to arise therefrom was estimated by both of them to be much less than was afterwards realized.

5. For answer to the seventh paragraph this defendant denies for the reasons above stated that there was any duty whatever upon him to account to this complainant under the partnership agreement aforesaid.

6. For answer to the eighth paragraph the defendant denies that the fees he received from the said cases specified in Exhibit No. 1 to the bill of complaint herein were partnership funds or trust funds, and he avers that there is no money in which the estate of George B. Edmonds, or the said complainant, as representing the same, had any interest whatever, wherefore he says that his deposit

17 of the same in his own bank account is not subject to criticism, and he denies that he is under any liability whatever to the complainant in the premises.

7. For answer to the ninth paragraph the defendant says that the statements therein contained to the effect that he is insolvent is a malicious and wilful falsehood and wholly without justification, for that, he says that, as he believes to be well known to the said complainant, he is the owner of real estate in the District of Columbia, and in the near by territory of Maryland of the value of about sixty eight thousand dollars (\$68,000.00) at the least; that one of his estates is a tract of land of one hundred acres in Prince George

county Maryland, known as the "Carlton Mill" property, which is of the value, as this defendant estimates it, of not less than thirty-five thousand dollars (\$35,000), and the same is wholly unincumbered; that near by the said property is another tract of thirty acres, known as the "Shreeve" property, of the value of about fifteen thousand dollars (\$15,000.) that is subject only to six thousand dollars (\$6,000) of indebtedness; that he also owns his residence situated at the corner of Eleventh and East Capitol streets, northeast, in the city of Washington, which is worth about eight thousand dollars (\$8,000) and is clear of all incumbrance; and he also owns property in the subdivision of Trinidad in the District of Columbia worth about ten thousand dollars (\$10,000), and he is also possessed of personal estate, other than his said bank account for the said fees derived from the cases aforesaid, of the value of not less than ten thousand dollars (\$10,000) and an execution against this defendant for any amount within the said values, or a decree for said sum would in the estimation of this defendant be at any time realized. And

18 for answer to so much of said paragraph as avers that the only cases pending in this court against him of which he has knowledge are on the law side of the court; one of which is for the recovery of five hundred dollars (\$500) to which this defendant has, he believes, a complete defence, and the others are some causes appealed by him from the judgment of the justice of the peace, and in which the total amount involved does not exceed five hundred dollars (\$500). This defendant denies that he is largely indebted as in said paragraph is averred, and denies that there is any probability whatever of his funds in the bank being attached, or taken on execution, for that, he is amply able to pay all that he owes on any judgments that may be rendered against him.

8. For answer to the tenth paragraph defendant says that the said cases of J. A. Burgwyn, administrator, and William T. Fauber, and Richard Mayse were not included in the said partnership agreement, and that the said George B. Edmonds never had any interest whatever in said cases. And the defendant further says that the said claim of Richard Mayse was, as he is informed and believes, prosecuted to a judgment by R. A. Howard, an attorney practicing in the Court of Claims, and the money appropriated therefor has been by him collected and this defendant never had any interest in the said claim as attorney, or otherwise.

9. For answer to the eleventh paragraph the defendant denies that the said complainant, if he has any cause of action whatever against him, is without remedy at law, and submits that if, as he avers in his said bill of complaint, he has knowledge of the
19-22 exact amount of fees which he claims to be due him under said agreement of February 1888, that he has failed to take his remedy at law and ought to be required to pursue the same, but

this defendant again denies that the said complainant has any right whatever to have from him any sum by reason of the premises.

Now having fully answered this defendant prays that he may be hence dismissed with his costs in this behalf most wrongfully incurred.

GILBERT MOYERS, *Defendant.*

BIRNEY & WOODARD,
Counsel for the Defendant.

DISTRICT OF COLUMBIA, ss:

I, Gilbert Moyers, on oath say that I have read the foregoing answer by me subscribed and know the contents thereof, and that the statements therein made upon my personal knowledge are true, and those made upon information and belief, I believe to be true.

GILBERT MOYERS.

Sworn to and subscribed before me this 20th day of September,
A. D. 1899.

J. R. YOUNG, Clerk, &c.,
By R. J. MEIGGS, JR., Ass't Clerk.

* * * * *

23

Memorandum.

September 26, 1899.—Joinder of issue on answer filed.

Order on Secretary for Certain Information.

Filed March 7, 1900.

In the Supreme Court of the District of Columbia, Holding an
Equity Court for said District.

HORACE CUMMINGS, Administrator of George B. Edmonds, Deceased, Complainant, vs. GILBERT MOYERS, Defendant. } Equity. No. 20802.

Order:

Upon consideration of the motion of the complainant in the above-entitled cause this day filed, for an order requesting the Secretary of the Treasury of the United States to furnish certain information to be used in said cause, it is by the court this 7th day of March, A. D. 1900, ordered that the Secretary of the Treasury of the United States be, and he is hereby requested to furnish for use in the trial

of said cause, transcripts of the records of the Treasury Department of the United States, giving the following information, namely:

The number, date and amount of the warrant, and the number, date and amount of the draft issued in favor of Susan Merrill of Lee county, Mississippi, in payment and satisfaction of an appropriation for the payment of claim of the said Merrill, which said appropriation was made by the act of Congress of March 3, 24 1891, being an act for the allowance of certain claims, for stores and supplies, etc., as reported by the Court of Claims under the provisions of the act of March 3, 1883, known as the "Bowman act;" also the name or names of the attorney or attorneys, if any, who received for the above mentioned draft, and if said draft was delivered in the care of any attorney or attorneys, the name or names of said attorney or attorneys and the date of such delivery.

JOB BARNARD, *Justice.*

Motion to Obtain Information.

Filed March 7, 1900.

In the Supreme Court of the District of Columbia, Holding an Equity Court for said District.

HORACE CUMMINGS, Administrator of George B. Edmonds, Deceased, Com- plainant, <i>vs.</i> GILBERT MOYERS, Defendant.	} In Equity. No. 20802.
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Comes now Horace Cummings, the complainant in the above entitled cause, and moves the court for an order requesting the Secretary of the Treasury of the United States to furnish to this court properly certified transcripts of the records of the Treasury Department of the United States, giving the following information to be used as testimony on behalf of the said complainant in said cause, to-wit:

25 The number, date and amount of the warrant, and the number, date and amount of the draft issued in favor of Susan Merrill of Lee county, Mississippi, in payment and satisfaction of an appropriation made by the act of Congress of March 3, 1891, being an act for the allowance of certain claims for stores and supplies, &c., as reported by the Court of Claims under the provisions of the act of March 3, 1883, known as the "Bowman act;" also the name or names of the attorney or attorneys, if any, who received for the above mentioned draft, and if said draft was delivered in the care of any such attorney or attorneys, the name or names of such attorneys, and the date of such delivery.

DAVIS AND TUCKER,
Solicitors for Complainant.

Copy of Original Papers in U. S. Treasury.

Filed March 15, 1900.

UNITED STATES OF AMERICA,
 TREASURY DEPARTMENT, *March 14, 1900.*

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true and correct copies of the originals except the initials of the clerks who made them out. (It appears from the warrant that the draft was mailed to Susan Merrell Tupelo, Miss., in this department.

In witness whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

[SEAL.]

L. J. GAGE,
Secretary of the Treasury.

L. J.
 T.

26

Draft.

No. 40,128.
 Series of 1874.

On war warrant.

No. 2182.

H-L-K.

TREASURY OF THE UNITED STATES,
 WASHINGTON, D. C., *Jan'y 5'', 1892.*

Pay to the order of Susan Merrill, eight hundred fifteen dolls.
 To ass't treasurer of New Orleans, La.

(\$815.)

E. H. NEBUKER,
Treasurer of the United States.

[Written across the face:] United States Treasury. Paid January 15, 1892. New Orleans.

(Endorsed:) John H. Long, executor of Susan Merrill. Pay Continental national bank Memphis, Tenn. or order, for collection, for account of First national bank, Tupelo, Miss. A. T. Harkey, president. A. T. Harkey, P't. For collection, account of Continental nat'l bank, Memphis, Tenn. C. F. M. Niles, cashier. A. Labarthe, *of cash'r.*

27 Office of the Secretary
of the Treasury, di-
vision of warrants, esti-
mates, and appropriations.
Form 58.

War Settlement Warrant.

TREASURY DEPARTMENT.

To the Treasurer of the United States, Greeting:

No. 2182. Pay to Susan Merrill, Tupelo, Miss., or order, to be charged to the appropriations named in the margin, eight hundred and fifteen dollars due — —, —, on settlement, pursuant to a requisition No. 2671, of the Secretary of War, dated Jan. 2, 1892, countersigned by the Second Comptroller of the Treasury and registered by the 3 auditor.

\$815.00 And for so doing this shall be your warrant.

[SEAL.] Given under my hand and the seal of the Treasury Department this 2 day of January, in the year of our Lord one thousand eight hundred and ninety two, and of Independence the one hundred and sixteenth.

O. L. SPAULDING,
Acting Secretary.

Countersigned: 4"

A. C. MATTHEWS,
First Comptroller,

By J. R. GARRISON,
Deputy First Comptroller.

L. W. RIED,
Ass't Register.

Registered: 5"

OFFICE OF THE TREASURER OF THE UNITED STATES.

Received for this warrant the following draft:

No. 40128 on New Orleans.

No. — on —.

Mailed 1/6/92.

Appropriations.

Stores & supplies taken by the army, Bowman Act cases.....	815.00
Regular supplies of the quartermaster's department.....	
Incidental expenses of the quartermaster's department.....	
Transportation of the army and its supplies.....	
Horses and other property lost in the military service.....	
Subsistence of the army.....	
Medical and hospital department.....	
Claims for quartermaster's stores and commissary supplies, act July 4, 1864.....	
Fifty per centum of arrears of army transportation due cer- tain land-grant railroads.....	
Commutation of rations to prisoners of war in rebel States and soldiers on furlough.....	

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Motion for Leave to Amend Answer and Affidavit.

Filed May 18, 1900.

In the Supreme Court of the District of Columbia, Holding a Special Term in Equity.

HORACE S. CUMMINGS
vs.
GILBERT MOYERS. } Equity. No. 20802.

Now comes the defendant Gilbert Moyers and moves the court for leave to amend the 4th paragraph of his answer so far as the same admits or appears to admit that all the cases mentioned in Complainant's Exhibit No. 1 were prosecuted by this defendant in the Court of Claims and that he has collected the judgments had in all said cases, for that he says such admission does not truly show the facts and was improvidently made through mistake as will more fully appear from the affidavit hereunder written.

BIRNEY & WOODARD,
Solicitors for Defendant.

DISTRICT OF COLUMBIA, ss:

I, Gilbert Moyers, on oath say that I am the defendant in the above cause of Cummings, administrator of Edmonds vs. Gilbert Moyers. The statement in the fourth paragraph of my answer filed September 20, 1899 to the effect that I had as attorney prosecuted all the cases mentioned in the Exhibit 1 to the bill of complaint, and collected the judgments in all such cases, is erroneous and was made in mistake of the facts. Of the cases mentioned in said Exhibit No. 1 there are four which I did not prosecute and the judgments in which were not collected by me, as appears by the original files and records of the Court of Claims which have been produced in this cause. The cases are those of George Show, J. L. Roberts, T. W. Russell and Christian Ubele, admr. in which the recoveries amount to \$2697. The first two of these were prosecuted by G. W. Z. Black, as attorney, the case of Russell by P. E. Dye as attorney and the case of Ubele by W. Penn Clark and his associate as attorneys. The appropriations for payment of the amounts found due were presumably collected by them. They were not collected by me. The bill of complaint in this cause was filed September 16, 1899. At the time of its filing, a most sweeping injunction was allowed, restraining me among other things from withdrawing any moneys on deposit in my name or to my credit in any bank in the District of Columbia. By this means all of my available funds were tied up and I was much

embarrassed. To get rid of this injunction as speedily as might be was my first effort and to this end my answer was hastily prepared. I have been engaged in the work of an attorney prosecuting claims before the Court of Claims for many years and had many hundreds of cases before the Government departments and the Court of Claims. I knew I had settled all of my affairs with the complainant's intestate in 1892, and that he had no claim upon me in respect of any cases. For this reason I did not scan Exhibit No. 1 and examine the cases named therein with care, and I now find that I made the error above stated. This erroneous admission in my answer did not come to my attention until yesterday, May 15, 1900.

GILBERT MOYERS.

Subscribed and sworn to before me this 16th day of May, 1900.

[SEAL.]

HERBERT L. FRANC,

Notary Public, D. C.

Mertz Bldg., Cor. 11th. & F Sts., Washington, D. C.

Order Overruling Defendant's Motion to Amend.

Filed May 18, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Adm'r, Complainant, }
 vs. } Equity. No. 20802.
 GILBERT MOYERS, Defendant. }

Upon consideration of the motion of the defendant this day filed for leave to amend his answer to the bill of complaint, it is this 18th day of May, 1900, order- that said motion be and the same is hereby overruled.

A. B. HAGNER,
Asso. Justice.

Motion for Leave to Amend Answer, and Affidavit.

Filed May 23, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, }
 vs. } No. 20802. Equity.
 GILBERT MOYERS. }

Now comes the defendant, Gilbert Moyers, by his counsel, and shows to the court that in answer to the sixth paragraph of the bill

of complaint this defendant by the fourth paragraph of his answer
in general terms admitted in substance that judgments had
31 been rendered by the Court of Claims in all the cases of claims
mentioned in Exhibit No. 1, to the bill of complaint, and
admitted that he, the defendant, had collected said judgments.

This defendant now finds that he was mistaken in such admissions, that the same were too broadly made, that the testimony in this case discloses such mistake and that of the twenty cases mentioned in said Exhibit No. 1, there are five which were not prosecuted in the Court of Claims by this defendant, and in which he did not collect the judgment or receive the amount appropriated by the Congress of the United States, and there is one other in which no judgment whatever has been rendered by the Court of Claims and in which no appropriation has been made by Congress.

Wherefore, the premises considered because of the said apparent and manifest mistake of this defendant, he prays leave of the court to amend his said answer in such wise as to show the facts, as above set forth.

BIRNEY & WOODARD,
Counsel for Defendant.

DISTRICT OF COLUMBIA, ss:

I, Gilbert Moyers on oath say that I am the defendant in the foregoing suit, that at the time of making my original answer to the bill of complaint I was under a mistake and misapprehension touching the cases mentioned in Exhibit No. 1 to complainant's bill, and supposed that his statement that I had prosecuted said cases and collected the appropriations to pay the same was true, as will appear by my affidavit heretofore made to amend my answer.

32 Such answer was made in haste, such haste being of great importance to me because of the order of injunction which had been granted, restraining me from checking out of any bank any money to my credit; and I did not therefore give the said Exhibit No. 1 the careful examination which it should have had. It is a fact, which has been established by the sworn testimony taken in this cause and by the examination in the courts of said testimony of the original files and records of the Court of Claims that neither I nor George B. Edmonds prosecuted the cases of C. Ubule (or Ubele) administrator, T. W. Russell, M. C. Baylor, J. L. Roberts and George Show, but said cases were all prosecuted by other attorneys, who received the amount of the appropriation by Congress for the payment of the same and all the fees paid therein. It has also been shown in the evidence by the official records of the Court of Claims, and it is a fact that the case of Johnston, administrator of Richard W. Johnston (erroneously styled R. M. Johnston in Exhibit No. 1) has not been prosecuted to a finding by the Court of Claims, and that no appropriation has been made for the payment thereof.

The affiant further shows that he is employed in many hundreds of cases in the Court of Claims and the various Government departments, to examine which would take much time, and that his failure to examine Exhibit No. 1 and compare the same with his records is largely due to this fact, and to the further fact that he supposed he had made a complete settlement with the said George B. Edmonds in 1892, and that said Exhibit No. 1, would play but little part in the trial of this cause. Affiant further says that the facts above set forth, connected with the said six cases, have come to his knowledge only within the past few days, that is to say, within the last week.
33 The affiant further says nothing.

GILBERT MOYERS.

Sworn to before me this 22nd day of May, 1900.

HERBERT L. FRANC,
[SEAL.] Notary Public, D. C.*Order Granting Leave to File Supplemental Answer.*

Filed May 24, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Adm'r, }
vs. } No. 20802.
GILBERT MOYERS. }

Upon consideration of the motion and petition of the defendants for leave to amend his answer to the original bill of complaint, it is this 24th day of May, 1900, ordered that said motion be and the same is allowed so that defendant have leave to file a supplemental answer to the effect stated in said petition.

By the court:

A. B. HAGNER.

Supplemental Answer.

Filed May 26, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

Now comes the defendant Gilbert Moyers and by leave of the court first had and obtained, files this his supplemental answer to the bill of complainant herein:

This defendant says that since the filing of his answer herein to the original bill of complaint, he has learned and the fact is that there are errors of statement contained in his said answer in the 5th and 6th paragraphs thereof, wherefore, to correct said errors, this defendant further answering the same says:

For further answer to the said 5th paragraph this defendant says that the cases referred to in said agreement of February 1888, were never scheduled or set out in any list so far as this defendant has knowledge; that it was intended when said agreement was signed that a list of such cases should be prepared by the said George B. Edmonds and a copy thereof attached to each draft of the said agreement of February 1888, which was executed in duplicate, but the same was not done.

And further answering, this defendant says that so much of his said answer in paragraph four as appears to admit that all the claims set out in Complainant's Exhibit No. 1 were prosecuted by this defendant and that judgments were rendered in all of them by the

Court of Claims and that the Congress of the United States
35 has appropriated for the payment of all of them and that he,
this defendant, has collected all of said judgments and has
collected the sum of \$26,380.25 in fees is erroneous, and defendant
says that the fact is that of the cases so set out in the said Exhibit
No. 1, only a part were prosecuted by him, and that of said cases so
found in said Exhibit No. 1, the case of C. Uble (or Ubele), administrator,
T. W. Russell, M. C. Baylor, J. L. Roberts and George Show
were not prosecuted by this defendant and he has never had any in-
terest therein as attorney or otherwise, said cases having been prose-
cuted by other attorneys with whom this defendant had no connec-
tion, and who, as he verily believes, collected the appropriation made
therefor and received any fees that may have been paid by the claim-
ants, and the further cause of R. M. Johnston mentioned in said Ex-
hibit No. 1 was not prosecuted by this defendant and he has no
knowledge thereof and he does not know if there is such a case or if
the same has ever been appropriated for by Congress; that if by said
case of "R. M. Johnston" is meant the case of the administrator of
Richard W. Johnston then this defendant says that he verily be-
lieves no finding upon the merits has been made by the Court of
Claims in that case, and no appropriation has been made by Con-
gress therefor.

This defendant further correcting the said 4th paragraph again says that there was no schedule attached to the said agreement of February 1888 and the intimation contained in said fourth para-
graph that there was such schedule attached to said agreement is erroneous.

This defendant prays that the above answer may be taken as a supplement to and amendatory of his said original answer in this cause.

GILBERT MOYERS.

BIRNEY & WOODARD,
Counsel for Def't.

36 DISTRICT OF COLUMBIA, ss :

I, Gilbert Moyers, on oath say that I have read the foregoing answer by me subscribed and know the contents thereof and that the statements therein made of my own knowledge are true, and those stated on information and belief, I believe to be true.

GILBERT MOYERS.

Subscribed and sworn to before me this 25th day of May, 1900.

GEORGE W. TAYLOR,

[SEAL.]

Notary Public, D. C.

Motion to Strike Out Part of Def't's Amended Answer.

Filed June 1, 1900.

In the Supreme Court of the District of Columbia, Holding an
Equity Court for said District.

HORACE S. CUMMINGS, Administrator, Com-

plainant,

vs.

GILBERT MOYERS, Defendant.

} In Equity. No. 20802.

Comes now the complainant, in the above-entitled cause and moves the court to strike out and expunge from the amended or supplemental answer of the defendant, filed May 26th, 1900, or for an order requiring the said defendant to strike out or expunge from his said amended or supplemental answer so much of said amended or supplemental answer as corrects or amends the statement in the fourth paragraph of his original answer that there was a schedule attached to the partnership agreement of February 6th, 1888,

37 mentioned in the bill of complaint, by stating that there was no such schedule; upon the ground that the order of the court passed May 24th 1900, granting leave to the defendant to amend his answer, or file a supplemental answer, did not grant leave to the defendant to correct or amend said answer in the respect heretofore mentioned.

DAVIS & TUCKER,
Solicitors for Complainant.

Messrs. Birney & Woodard, solicitors for said defendant:

Take notice that the above motion will be called up for hearing in equity court No. 1, Mr. Justice Hagner presiding, on Tuesday morning next, June 5th, 1900 at 10 o'clock, or as soon thereafter as counsel can be heard.

DAVIS & TUCKER,
Solicitors for Complainant.

Service accepted.

BIRNEY & WOODARD,
Solicitors for Defendant.

June 1st. 1900.

38-46 *Order Striking Out Portions of Supplemental Answer.*

Filed June 5, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Adm'r,
vs.
GILBERT MOYERS, Defendant. } In Equity. No. 20802.

Upon consideration of the motion of the complainant in the above entitled cause filed June 1, 1900, and after argument by the solicitor for the respective parties, it is this 5th day of June, 1900, ordered that so much of the defendant's amended or supplemental answer heretofore filed as denies that there was a schedule attached to the partnership agreement, described in said bill of complaint be and the same is hereby expunged and stricken from said amended or supplemental answer.

A. B. HAGNER,
Asso. Justice.

Joiner of Issue.

Filed June 5, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Adm'r,
vs.
GILBERT MOYERS, Defendant. } In Equity. No. 20802.

The complainant joins issue upon the amended or supplemental answer of the defendant.

DAVIS & TUCKER,
Solicitors for Complainant.

* * * * * *

47

Decree for Accounting, &c.

Filed June 13, 1900.

In the Supreme Court of the District of Columbia, Holding an Equity Court for said District.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Deceased,
Complainant, } vs. } Equity. No. 20802.
GILBERT MOYERS, Defendant.

This cause coming on to be heard upon the pleadings, exhibits and testimony, and having been argued by counsel and submitted to the court, it is this 13th day of June, A. D., 1900, adjudged, ordered and decreed as follows, to wit:

1. That a special partnership existed between the complainant's intestate, George B. Edmonds, and the defendant, Gilbert Moyers, created by the partnership agreement described in the fourth paragraph of the bill of complaint in the above-entitled cause, and that said partnership related to the prosecution of the claims mentioned and described in a schedule or list of claims, which were therein referred to as attached to the said partnership agreement.
2. That no valid and binding purchase was made by said defendant of the interest of the said decedent, George B. Edmonds, in said partnership business as is alleged in said defendant's original answer to said bill of complaint.
3. That the complainant, as the administrator of the said decedent, George B. Edmonds, is entitled to an accounting with the defendant of all partnership dealings and transactions between the defendant and said decedent after the date of the said partnership agreement of February 6, 1888, and to recover from the said defendant the balance of money shown to be due from said defendant upon such accounting.
4. That this cause be and the same is hereby referred to the auditor of this court to take an account of said partnership dealings and transactions commencing with the 6th day of February 1888, showing the sum or sums of money collected by the said defendant, and by the said George B. Edmonds (if any were so collected by him) from time to time on account of said partnership agreement; and to ascertain the sum or sums of money so collected by said defendant, and by the said George B. Edmonds, if any, on account of the fees paid by the claimants in the said partnership claims; the amount of the fees which were properly payable by said claimants, and the amount of fees which were actually paid by them, and the person or persons to whom they were so paid; the sum or sums of

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money, if any, paid out by the said defendant for expenses in the prosecution of said claims; the sum or sums of money, if any, paid by the said defendant to the said decedent during the lifetime of said decedent on account of the interest of said decedent in said partnership business; and to report fully the state of the partnership account between the said decedent, or his estate, and the said defendant; the said account and report to be taken and made upon the testimony now in the said cause, with such other and further testimony as may be adduced by the parties thereto, which the auditor is hereby authorized to take, upon proper notice to said parties.

49-54 5. And it is further ordered that the consideration of the application for a receiver presented by the bill, be and the same is reserved for the future adjudication of the court to be made on a motion for that purpose by the complainant upon notice thereof to the defendant.

A. B. HAGNER,
Asso. Justice.

* * * * *

Order Appointing Receivers; Appeal.

Filed June 20, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, &c., }
Complainant,
vs.
GILBERT MOYERS, Defendant. } Equity. No. 20802.

Upon consideration of the motion of the complainant in the above entitled cause filed June 12, 1900, for the appointment of a receiver and of the affidavits filed in support thereof as well as the affidavits of the defendant filed in opposition thereto, and also of the pleadings and exhibits and the testimony heretofore taken in said cause, and after argument by the solicitors for the respective parties, it is by the court this 20th day of June 1900, ordered, that Charles Cowles Tucker and Henry F. Woodard, be and they are hereby appointed receivers to collect, get in and receive the hereinafter mentioned property and moneys belonging to the partnership heretofore decreed by this court to have existed between George B. *Edwards*, deceased, and the defendant in said cause; and said receivers are hereby directed to qualify as such, forthwith, by giving a joint bond in the penal sum of fifteen thousand dollars, conditioned upon the faithful discharge of their duties as such receivers.

And it is by the court further ordered that the complainant and the defendant deliver to said receivers all of the books and papers.

and other effects of said partnership in their or either of their hands; and that the defendant deliver to said receivers from the moneys heretofore collected by him on account of the fees paid by 56-63 the claimants in the partnership claims described in the bill of complaint in said cause, the sum of nine thousand dollars, which said sum of money said receivers shall hold until further order of the court.

And said receivers are hereby ordered and directed to make a full report to the court after the receipt by them of the books, papers and effects of said partnership, as to the advisability of the further prosecution by them of the uncollected partnership, claims and of the state of said partnership business.

A. B. HAGNER,
Asso. Justice.

From the above order the defendant Gilbert Moyers in open court appeals to the Court of Appeals of the District of Columbia and the court fixes the penalty of the bond for supersedeas to be given by him on such appeal at fifteen thousand dollars.

A. B. HAGNER.

June 20, 1900.

* * * * *

64 *Testimony on Behalf of Complainant.*

Filed February 12, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Complainant, }
vs. }
GILBERT MOYERS, Defendant. }
Equity. No. 20802.

DISTRICT OF COLUMBIA, ss:

Be it remembered that an examination of witnesses begun and held on the 13th day of December, A. D. 1899, and continued from time to time until the 18th day of December 1899, when the within depositions were taken, I, Alexander H. Galt, an examiner in chancery, did cause to be personally present at the office of Messrs. Davis and Tucker, Washington Loan and Trust building, Washington, District of Columbia, Horace S. Cummings (the complainant), James W. Butterfield, James B. Edmonds, to testify on the part and behalf of the complainant in a certain cause now pending in the supreme court of the District of Columbia wherein Horace S. Cummings administrator, is complainant and Gilbert Moyers is defendant.

Which said examination was had after due notice and at which, on the day aforesaid, there were present Charles Cowles Tucker

Esquire, on behalf of the complainant and Arthur A. Birney Esquire on behalf of the defendant.

ALEXANDER H. GALT,
Examiner-in-Chancery.

65 In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Complainant, }
vs.
GILBERT MOYERS, Defendant. } Equity. No. 20802.

WASHINGTON, D. C., December 13, 1899.

Met at the office of Messrs. Davis and Tucker, Washington Loan and Trust building, at 3 p. m., this day for the purpose of taking testimony on behalf of the complainant in the above entitled cause.

Appearances: On behalf of the complainant, Charles Cowles Tucker, Esq., on behalf of the defendant, Arthur A. Birney, Esq.

HORACE S. CUMMINGS, the complainant, produced in his own behalf, having been first duly sworn, testified as follows:

By Mr. TUCKER:

Q. Please state your residence and occupation? A. I reside in the city of Washington; occupation a lawyer by profession.

Q. You have been a resident of this District for a number of years? A. Yes sir; for thirty-five years.

Q. And you are the complainant in the suit of Cummings, administrator vs. Moyers, known as Equity No. 20,802? A. I am.

Q. You bring the suit as the administrator of the estate of 66 the late George B. Edmonds? A. Yes sir.

Q. Please state whether you were acquainted with Mr. Edmonds in his lifetime? A. I have been acquainted with Mr. Edmonds since about 1882 or '3.

Q. Where did he live? A. He came from Iowa. Secretary Kirkwood of the Interior appointed him when he was a resident of Iowa, as chief clerk of the Land Office.

Mr. BIRNEY: This is objected to as immaterial and irrelevant.

The WITNESS: He was in that office for a while and then his health being such that he needed outdoor life, he resigned that office and was appointed as Government inspector to examine into Government lands, especially in regard to timber depredations in the South. He held that office, I should say, until some time in 1884 or 1885 when he resigned and went into what is commonly known as the claims business.

Q. Do you know whether he was a lawyer by profession? A. He

was a lawyer and a man who had a very good reputation from what I have heard of him.

Q. When and where did he die? A. He died at Dunn Loring, in Fairfax county, Virginia, I think the last day of October, 1896.

Q. How intimate was your acquaintance with him for a few years prior to his death? A. In 1890 or 1891 particularly, he showed aberration of mind and it became a question of—

Q. Please just answer the question. How intimate was
67 your acquaintance with him—intimate or otherwise? A. It was rather intimate than otherwise.

Q. State whether or not you, as his administrator, have possession of any of his property or effects? A. I have possession of all that I know of.

Q. Generally speaking they consist of what? A. They consist of papers, letters and books, probably 200 and odd books of various kinds and the papers connected with his claim business.

Q. Where did you get possession of those papers and books? A. They were in two trunks in the room that he had occupied—I hired it for him—in 1894.

Q. That room was in a building in this city? A. Yes sir; on F street—the north side of the street between 6th and 7th.

Q. After his death did you find his effects in that room? A. Yes; and took possession of them. They were kept locked up in the room.

Q. Do you know whether anybody beside yourself had access to the room? A. I presume they did but I do not know.

Q. You had a key to it? A. I had the key to the trunk.

Q. I hand you a paper dated February 6, 1888, purporting to be an agreement between Gilbert Moyers and George B. Edmonds, to which is attached a number of sheets containing a list of names, and ask you if you have ever seen that paper before?

Mr. BIRNEY: If it is proposed by this question to inquire
68 of the witness whether he saw this paper before the death of
Mr. Edmonds, counsel for the defendant objects on the ground
that this witness is incompetent to testify to any transactions by or
with the deceased.

Mr. TUCKER: Solicitor for the complainant states that it is not the intention to examine this witness with reference to any conversations or transactions he may have had with the deceased.

(By Mr. TUCKER:)

Q. This paper was delivered to you when? A. This paper was delivered to me about 1892 by Mr. Edmonds.

Mr. BIRNEY: I object to that as incompetent.

Q. Please in your answers to these questions do not relate any conversations or transactions you may have had with Mr. Edmonds. Simply state from whom you got the paper and when? A. That

was what I was going to state. This paper was delivered to me by Mr. Edmonds in 1892.

Mr. BIRNEY: Objected to as incompetent by this witness.

WITNESS: And placed by me in my safe where it has been until it was delivered to me by my attorney.

Q. Please state whether or not that bunch of papers is or is not in exactly the same condition as it was when first delivered to you?
A. Precisely in the same condition.

Mr. BIRNEY: I object to that as leading and incompetent by this witness.

69 Q. State whether or not that has ever been out of your possession since it was delivered to you until it was delivered to your attorney?

Mr. BIRNEY: Objected to as leading.

A. Never.

Q. Did you ever see Mr. George B. Edmonds write? A. I have, frequently.

Q. Are you familiar with his handwriting? A. I am.

Mr. BIRNEY: Objected to on the ground that it calls for testimony as to transactions with the deceased, as to which this witness is incompetent.

Q. Please state whether or not in your opinion, the name of George B. Edmonds attached to the agreement which you hold in your hand is or is not the genuine signature of George B. Edmonds?

Mr. BIRNEY: Objected to because no proper foundation has been laid and the witness is incompetent to testify to any transactions with the deceased, and his answer must, if made in the affirmative be based upon such transactions.

A. The signature here written by Mr. Edmunds was written by himself.

Q. Please examine the list of names attached to that agreement and state in whose handwriting that is?

Mr. BIRNEY: That is objected to on the grounds heretofore stated.

A. (Examining.) This whole list I have examined it carefully at different times, was made by Mr. Edmonds in his own handwriting.

70 Mr. TUCKER: Complainant's solicitor here requests the examiner to mark for identification the paper referred to.

(The paper is marked Complainant's Exhibit No. 1.)

Q. I hand you 24 envelopes, each containing certain endorsements and enclosures, and ask you if you have ever seen those papers before? A. I have.

Q. Where did you first see them?

Mr. BIRNEY: If it is intended by this question to refer to any time anterior to the death of Mr. Edmonds, the defendant objects on the ground that the witness is incompetent.

A. These papers I never saw or came in possession of until after the death of Mr. Edmonds when, upon examining his effects, I found a set of books supposedly containing all of his claims transactions and also a large mass of these envelopes put up each in a jacket, like that, all in his own handwriting and endorsements. I opened them and found —

Q. Do not state the contents. A. I opened them and found in each one was the envelope that had been sent to him.

Mr. BIRNEY: Objected to as stating the contents of paper writings.

A. I want to say that that is just the way I found them; in every case without exception there was the letter as you see it there with his endorsement; I compared them with his books and found the books and the contents spoke for themselves. I will say that there were about 350 of those.

Q. Those envelopes I have just handed to you are the
71 papers in what if any claims? A. These papers cover the cases that are specified in the bill in which I am the complainant, and cover each case, case by case.

Q. When and under what circumstances did you first see these papers? A. On unlocking the drawers and opening them.

Q. You refer now to the trunks of Mr. Edmonds? A. Yes sir, the trunks of Mr. Edmonds.

Q. And after his death? A. Yes sir; after his death. I will say that I did not see those until this year.

Q. Please state whether or not the endorsements on those several envelopes are or are not in Mr. George B. Edmonds' handwriting? A. Every one of them.

Mr. BIRNEY: Objected to as sufficient foundation has not been laid and the witness being incompetent to testify to transactions with the deceased in which he became acquainted with his transactions.

Mr. TUCKER: I want the examiner to mark for identification the envelopes and papers referred to by the witness.

(This is accordingly done and the same are marked Complainant's Exhibit Nos. 2 to 26 inclusive.)

Q. Are you acquainted with Mr. Gilbert Moyers, the defendant? A. I have a slight acquaintance with him.

Q. Please state whether or not as administrator of Mr. George B. Edmonds you ever made any demand upon him for an accounting in the matter of the claims mentioned in your bill of complaint in this cause?

Mr. BIRNEY: Objected to as leading.

72 A. I went to see Mr. Moyers the latter part of March of the present year and told him I represented Mr. George B. Edmonds and that I found papers and a schedule and contract in my possession which showed that Mr. Edmonds had been interested in certain claims. Mr. Moyers said Yes; I asked him if he could tell me anything about it; he said, No, he could not then because he was very busy, that he had a large amount of those claims and that he was having considerable trouble with some of his clients with regard to fees, and when he got time which he hoped to very soon—he would look it over and come in again. The very last of March I was out of the city for a short time for about two weeks, and when I came back I went to him again and he said, Yes Mr. Edmonds had an interest in some of those claims but he said he did not know whether there was anything coming to Mr. Edmonds or not. He said he had paid Mr. Edmonds moneys at different times, and he said "I have laid out a large amount of money in the prosecution of cases that were not successful, and that have been rejected." And he said he could not tell until he had gone through to see what was coming to Mr. Edmonds and what not, but he said he hoped to get around to it so he could inform me. I had one or two notes from him after that. I wrote him at least—and then he answered and said he hoped in a week or two he could give me a statement of the standing of the cases. I waited—I cannot tell how long—and then I was speaking to Mr. Butterfield who was in my office—

Q. Do not relate any conversations with Mr. Butterfield. A. That is all. I just simply got no satisfaction from Mr. Moyers; he told me on the street once—he said "You know I am not well;" 73 he said he had met with an accident I think from jumping from a car or something, and said he hit his head and he felt very bad, and he said "I cannot work as I would like to" but he said "I will try to get around to it soon."

Q. Has he ever made any accounting to you as administrator of those accounts? A. No sir; he never had.

Cross-examination.

By Mr. BIRNEY:

Q. Did you ever have any assignment from Mr. George B. Edmonds of an interest in cases prosecuted by him?

Mr. TUCKER: Objected to as incompetent, irrelevant and immaterial.

A. No sir; never sir, at any time.

Q. Did you at any of your conversations with Mr. Moyers tell him that you had an assignment from Mr. Edmonds of an interest in these cases?

Mr. TUCKER: Objected to for the same reason.

A. I never told him any such thing because I never did.

Q. How many times did you see Mr. Moyers at his office and when? A. I think—I won't be sure, but I think that I saw him twice, maybe—once.

Q. At his office? Q. I know the first time I went in there he was not in; there was a lady there, evidently a clerk, and a man and they said he would be in in a few minutes, and when he came in he went in the back room. I went into the back room with him and all the conversation I had with him was in that room.

74 Q. Did you upon that occasion, or at any other time when you were in his office, in the presence of his clerks, tell him that you had an assignment from George B. Edmonds of these cases and were interested in them? A. I never told him I ever had an assignment in those cases from Mr. Edmonds because I did not. I never told any one that.

Q. Did you have an assignment from the heir of Mr. Edmonds?

Mr. TUCKER: Objected to as incompetent, irrelevant and immaterial.

A. I had an assignment from his brother, subsequent to the letters of administration.

Q. Was that brother his next of kin? A. His only heir and next of kin.

Mr. TUCKER: The question and answer are objected to upon the ground that it is not shown whether such assignment is in writing or not. If in writing the testimony of the witness is incompetent, the writing being the best evidence.

Q. Is that assignment in writing? A. It is.

Q. Have you it with you? A. I have not.

Q. Will you produce it at the next session?

Mr. TUCKER: I will on the hearing move to strike out the entire testimony of the witness with respect to the assignment in question upon the ground that the best evidence of the so-called assignment is the paper itself.

Mr. BIRNEY: Please produce the paper at the next session.

(By Mr. BIRNEY:)

75 Q. Where was it you found those papers in the envelopes which you have produced? A. I found them in a trunk that is in my office.

Q. How long had that trunk been in your office when you found them? A. That trunk has been in my office I should say perhaps since last June.

Q. June of 1899? A. Yes sir.

Q. Where was it before that time—where did you find it? A. It was in his room on F street—on the north side between 6th and 7th—a room that I hired for him, and where he roomed and lived until he was taken with paralysis and I sent him to the Homeo-

pathic hospital where he was for one year. After he was released from the hospital they said he was incurable—and I took him over to Virginia and made arrangements with a friend of mine who had a farm there and he stayed there until he died.

Q. When did he die? A. I think the last day of October, 1896.

Q. How long then was it before his death when he left the office on F street, of which you have spoken—when did he go to the hospital? A. I think in 1894.

Q. Do you know what time in 1894? A. No sir, I won't say whether it was in 1894 or 1895; it might have been early in 1895 but he was in the hospital one year. In the mean time he had been in the insane asylum but they said he was harmless and that really he was so unhappy over there that they said there would be
76 no danger in his being out. So Dr. Witmer advised me that he would discharge him, but I must still keep his name on the books so that any time I could put him — without a recommitment.

Q. When was he in the asylum—what year? A. I think in 1893.

Q. Before he went to the Homeopathic hospital? A. Yes sir.

Q. Where did you first see this agreement with the list of names attached? A. That was handed to me in 1892.

Q. Where? A. In my office; it was brought to my office and handed to me.

Q. What did you do with it? A. I put it in my safe.

Q. And kept it there until when? A. I kept it there until after the appropriation bill had passed.

Q. Can you fix the dates better than you have already done, when you first made a demand on Col. Moyers in connection with this matter? A. No, sir; I cannot. I know it was in the latter part of March; that is all I can say, but when, I cannot say.

Q. Do you think it was after the 20th of March? A. It would be impossible for me to say.

Q. What do you mean by the latter part. Can you fix a limit? A. No, I cannot. I paid no attention to it at the time.

77 Q. Why do you say it was in March? A. Because I was away the latter part of March—I went to Florida and was gone about two weeks and when I came back I went over to see Col. Moyers again.

Q. When was it that you went to Florida? A. I should say about the 20th of March.

Q. And you were gone about two weeks? A. Yes, sir.

Q. Your second visit to him was in April? A. Yes sir, about that.

Q. About what time in April? A. I could not tell you that. I know Mr. Moyers brought me a couple of notes.

Q. Was there more than one visit paid to him in his office? A. There was one but whether more than one I cannot say. I am inclined to think there were two. The second one was very brief. I just asked him "Col Moyers have you reached any conclusion yet?"

have you investigated?" and he said, "No, I have not." Then he went on and stated that he was very busy; that he had a great deal of trouble in getting these cases through, they were coming in with such a rush, and when he got around to it he would write me.

Q. I understand you to be uncertain whether that interview took place? A. Well, the first one took place; the second one, as I say, I am quite sure it was either there or I met him on the street—I met him on the street once or twice. I remember I met him on the street almost in front—just at the corner of 15th and F streets.

78 Q. You cannot tell then whether it was on the street or in his office that you saw him and had the conversation referred to or whether you saw him at his office once or twice. A. I know I saw him once, but whether I saw him twice I would not swear, but my impression is I did, but I saw him on the street at the corner of F and 15th and that is where he told me that he had had an accident and his head troubled him and he had hoped to get at the bottom of this thing by and by.

Q. Did you not in the presence of Mr. Moyers' clerk at his office, on the occasion of one of your visits there, say to Mr. Moyers that you did not claim that he owed Edmonds anything but that you had made certain advances on account of expenses incurred by Mr. Edmonds for his care and that you would like Mr. Moyers to make you good in those advances? A. I never had a word of talk with Mr. Moyers in the presence of any man that I know of.

Q. Or woman? A. Or woman.

Q. Did you make such a statement to him at his office? A. I told him that I was the guardian of Mr. Edmonds.

Q. I am not asking you what you told him. A. And I told him that when he died there was quite an amount of money owing me and that I hoped I could get enough to settle that account. I knew nothing about how many cases had been allowed—nothing about it.

Q. Didn't you say that you did not claim that Mr. Moyers
79 was indebted in any way to you but you would like to get enough money to make you good? A. I never made any such statement to any person.

Re-direct examination.

By Mr. TUCKER:

Q. When you had the conversation with Mr. Moyers that you have mentioned, did you know the number of the names of the claims in which Mr. Moyers and Mr. Edmonds were interested? A. I knew nothing about that; I knew nothing about that. I made no investigation. If I may state this I was in the Court of Claims, when Mr. Randolph spoke to me—

Mr. BIRNEY: The clerk of the court?

The WITNESS: The assistant clerk; Mr. Randolph, the assistant clerk spoke to me.

Q. Do not relate the conversation with him. That is not proper. Just relate what you did but do not relate any conversation that you had with any third person other than Mr. Moyers unless it was in his presence.

Mr. BIRNEY: That is objected to.

A. He called my attention to this claim—can I state what I told the clerk of the court?

Q. No, my question is simply this; when was it you made the investigation which developed, if such investigation did develop, the fact that Col. Moyers and Mr. Edmonds were jointly interested in the claims mentioned in this bill of complaint, before or after your conversations with Col. Moyers? A. After.

Mr. BIRNEY: Objected to as calling for a conclusion on the
80 part of the witness as to what the investigation developed.

Q. Now tell me whether these envelopes and their contents which have been identified are or are not now in exactly the same condition as they were when you took them from Mr. Edmonds' trunk? A. Exactly in the same condition.

HORACE S. CUMMINGS.

Sworn to before me this 13th day of December, 1899.

ALEXANDER H. GALT,
Examiner-in-Chancery.

JOHN W. BUTTERFIELD, a witness produced on the part of the complainant having been first duly sworn testified as follows:

By Mr. TUCKER:

Q. What is your residence and occupation? A. I live at 419 4th street, N. W. Washington, D. C.; I am an attorney at law.

Q. How long have you been a resident of Washington? A. Since 1861.

Q. Are you acquainted with Col. Gilbert Moyers, the defendant in this case? A. I am.

Q. Have you ever seen him in connection with the claims mentioned in the bill of complaint in this cause? A. Repeatedly.

81 Q. On whose behalf? A. Mr. H. S. Cummings.

Q. The complainant in this suit? A. Yes sir.

Q. Have you ever seen Col. Moyers write? A. Frequently.

Q. Are you familiar with his handwriting? A. I am.

Q. That familiarity with his handwriting has been gained in what way? A. I have seen him write—

Mr. BIRNEY: What do you want—the signatures to the contract?

Mr. TUCKER: Yes.

Mr. BIRNEY: I will admit it.

(It is stipulated by the defendant that the name Gilbert Moyers, signed at the foot of Exhibit No. 1 is in the handwriting of Mr. Moyers, the defendant, and that the interlineation in said type-written agreement is also in the handwriting of the said defendant Gilbert Moyers.

Q. When did you first see Col. Moyers with reference to the claims mentioned in the bill of complaint on behalf of Mr. Cummings, the complainant? A. It was in the month of June.

Q. What year? A. 1899.

Q. What, if any, conversation did you have with him then? A. Mr. Moyers at his office on 17th street near the avenue stated to me when I saw him first that he did not owe Mr. Edmonds anything.

He became quite excited and I told him not to get in a heat
82 about it; I had a list of the claims in my possession which
Mr. Cummings handed me the names from the statute. I
had in the meantime gone to the Treasury and found the state-
ment.

Q. Did that list which you have just referred to—it was a list of what claims? A. It was a list of claims under the appropriation bill of March 9, 1899 for the Bowman Act claims.

Q. Were the claims in that list the same claims as are mentioned in this bill of complaint? A. The same claims.

Mr. BIRNEY: Objected to for the reason that the list is evidently in writing and should be produced.

Q. Have you that list? A. I have it in my pocket.

Q. Will you produce it? A. (Producing paper.) This list is a copy from Mr. Cummings' list.

Q. Is the list that you now hold in your hands the list that you showed Col. Moyers? A. It is the list that I had; I do not think I showed it to Col. Moyers. I told him I had a list of the claims.

Q. Just state what occurred between you and Col. Moyers? A. That interview was very brief. I stipulated for another interview and called to see him, and I may state now to close all the interviews, I called to see him regularly once a week, until the first week in September.

Q. Did you state to him the purpose of your calls? A. I told him that Mr. Cummings had directed me as counsel to close up that matter with Mr. Moyers.

83 Q. What matter? A. The matter of Mr. George B. Edmonds' association with Mr. Moyers as attorney in the prosecution of those claims. At the next interview Mr. Moyers stated that he would examine the claims and see what they were. He withdrew from the Court of Claims—

Mr. BIRNEY: Objected to.

The WITNESS: I will say that I saw up in the corner of Mr. Moyers' office in regard to the claims, and from my knowledge and

familiarity with bundles of papers, I knew what they were, he moreover stated that he was examining claims then and would soon complete his examination. I called to see him two or three times while that examination was going on. Mr. Moyers one day showed me a typewritten folio of claims that he had examined under the Edmonds contract and I think I am quite sure that he mentioned 16 claims which he had found in which he and Edmonds were attorneys. In one of those interviews I told Mr. Moyers there was about \$60,000 of claims under the Edmonds and Moyers contract and that the fee in those claims would be about \$13,000 and that the maximum presented for collection presented at $2\frac{1}{2}\%$ would leave about \$11,000 or \$12,000.

Q. You mean \$13,000 of fees due whom? A. There were some \$26,000 of fees all told and that Edmonds would have one-half of those fees, so that if we counted the maximum cost of prosecution at $2\frac{1}{2}\%$ per cent. the amount that would be left would be somewhere from \$11,000 to \$12,000. Mr. Moyers stated that he had got to go over his books; that Mr. Edmonds had borrowed money of him; he had loaned him money and wanted to see how much he owed him but he had been sick and unable to complete his examination. That interview stopped on that occasion.

84 Now, while this examination is going on I called a number of times—three or four—on Mr. Moyers and on the occasion of my speaking about the examination that he had made and the amount that would be due on computation at the regular percentage, I said—"Now, can't you make an advance of about \$5,000 on those claims," and he said No. He then added that he had not completed his examination. On another occasion I took up the contract which Mr. Cummings had handed me—

Q. You refer to what contract? A. I refer to the contract which has been in the hands of Mr. Birney.

Q. You refer now to the typewritten agreement which has been identified and which I now show you (showing witness the paper which has been identified and marked H. B. C. No. 1)? A. I refer to that. Mr. Moyers admitted the agreement. He did not dispute that at all.

Q. You showed him this agreement? A. I showed him this agreement.

Q. Did it have this schedule—this list—connected with it just as I have it in my hand? A. Just as you hold it in your hand.

Q. The schedule and list of names attached to it? A. Precisely. Mr. Moyers said that schedule was a forgery. He said that Mr. Edmonds had written it out himself, and he said moreover he could bring two clerks from his office to prove the forgery. Well, that ended that. I called later to see Mr. Moyers to see if he had completed his examination and there was no one in his office; there are three or four rooms all connected by doors and I passed from there through the rooms and into the rear room and found Mr. Moyers on the sofa; he had been very sick, so he

told me. He was reclining. Mr. Moyers could not do anything then. He had not finished his work and had not made the examination of his books to see what the account was between him and Mr. Edmonds so there was nothing concluded then. During these interviews Mr. Moyers wanted to know, from me, in regard to Mr. Cummings' connection with the claim, and I told him that Mr. Cummings had an assignment of those claims from Judge Edmonds who was the sole heir and sole brother of Mr. George B. Edmonds. I stated to him at that time "Would he be willing to accept that as authority for closing a settlement with me?" He said he did not know about it; he was in doubt. The next time I saw him he said that inasmuch as Mr. Cummings had counsel he thought he would have counsel, so he named to me Mr. Chaney, formerly assistant attorney of the Court of Claims. Mr. Chaney was absent three weeks, I think or more. During that period I called each week to know when Mr. Chaney would be back. Mr. Chaney was first in a town in Indiana, his native place. I called also at Mr. Chaney's office to see if he had returned as I went by to see Mr. Moyers. Mr. Moyers stated that he would be in town on a certain day looking up some business there for him. After those three weeks or so Mr. Chaney returned and I saw him and he did not seem to know anything about the matter; he said he would see Mr. Moyers. He did so and subsequently I saw Mr. Chaney and we appointed a day in which we would have a hearing in this matter but circumstances prevented Mr. Chaney attending or doing anything. I called in the morning and this was the first of September, and Mr.

86 Chaney and I went up to Mr. Moyers' office. I told him I would not go in as he wanted to see Mr. Moyers and I remained over to the Court of Claims and when he returned to just call for me, which he did, and when he returned he said—

Mr. BIRNEY: I object.

Mr. TUCKER: Go on and state what he said.

The WITNESS: Mr. Chaney said "I am going away;" I told him I was going away and I told him I was going away that week too and I thought we could settle the whole thing up at once. Mr. Chaney said he wanted to go away, and that ended it. This was during the week and the Sunday following which was the 17th of September, I left town so that it was somewhere from the 10th to the 17th, the last interview.

Q. It appears from the bill of complaint that Mr. Cummings was appointed administrator of the Edmonds estate on August 22nd, 1899, and that averment is admitted in the answer. Please state whether your conversation with Mr. Moyers in which you mentioned the fact that Mr. Cummings had an assignment from Judge Edmonds of those claims, was before or after the appointment of Mr. Cummings as administrator? A. I had the assignment and took it out of my pocket the same as you would take out any paper; I did not hand it to Mr. Moyers; I told him there was an assignment.

Q. Was this before or after August 22nd, 1899? A. It was before, at least two months before. It was by repeated interviews of Mr. Moyers that I came to the conclusion that he would not make a settlement unless Mr. Cummings—

Mr. BIRNEY: I object to that.

87 A. (Continuing:) Unless Mr. Cummings got legal acquittance. I advised Mr. Cummings then to take out letters of administration as we could not settle the matter.

Mr. BIRNEY: Objected to as incompetent.

The WITNESS: I afterwards called on Mr. Moyers and stated to him in his office that Mr. Cummings had taken out letters of administration of George B. Edmonds at Fairfax, and I had the letters of administration in my pocket so if there had been any question I would have shown them to him.

Q. Please look at the exhibits from 2 to 4 attached to the bill of complaint in this case, one of which is a postal card which purports to be signed by Gilbert Moyers, dated July 21, 1899; another of which is a letter dated August 3rd, 1899, purporting to be signed by Gilbert Moyers, and a third being a letter dated September 11, 1899, purporting to be signed by John C. Chaney, and state what you know about those papers? A. You mean Exhibit No. 2?

Q. Two, three and four. A. (Examining.) Exhibit No. 2 is a postal card which I received through the mails.

Q. In whose handwriting is the signature? A. It is typewritten and signed by Gilbert Moyers. I would swear to that if I was in the court of Heaven; and the third is like it.

Q. Look at the letter Exhibit No. 3—the typewritten letter—
A. (Examining.) Exhibit No. 3, that is ditto. That is Mr. Moyers' signature. I received that through the mails.

88 Q. Now, the next one (referring to Exhibit No. 4, the Chaney letter). A. Now, in regard to that, all I know is that I received it signed by Mr. Chaney and I called to see Mr. Chaney, but I never saw him write in my life.

Q. You received it through the mails? A. I received it through the mails, and I called to see him at his office. The next day I called to see him—this was the 11th, I received it in the afternoon too late to call that day, and the next day at 12 I called to see him and I went up to Col. Moyers.

Q. The signature to the postal card and the letter of August 3rd. are in Mr. Moyers' handwriting? A. (Examining.) Without any doubt.

Mr. TUCKER: I offer in evidence Exhibits Nos. 2, 3 and 4 attached to the bill of complaint in this case.

Mr. BIRNEY: Counsel for the defendant objects to the offer of Exhibit No. 4, the same not having been sufficiently proved.

Cross-examination.

By Mr. BIRNEY:

Q. When was it that you first saw Mr. Moyers in this matter? A. I saw Mr. Moyers in June.

Q. At his office. A. Yes sir, at his office.

Q. At that interview did you claim to him that Mr. Cummings had an assignment from George B. Edmonds himself of all his interest in those claims? A. I did not. I distinctly told him it was an assignment from Judge Edmonds the brother of George B. 89 Edmonds.

Q. Was that at the first interview? A. That was at the first interview.

Q. Can you now state from recollection the date of that assignment? A. I know very well that the assignment—

Q. My question is can you give the date of it. A. I cannot give you the date. I know the assignment is signed by Judge Edmonds and witnessed by his wife.

Q. Have you that assignment now? A. No sir, I have not. When Mr. Cummings commenced his action I delivered him up all the papers that I had.

Q. Have you seen the assignment since you delivered it to Mr. Cummings? A. I have not.

Q. Was that before or after the suit was brought? A. It was before the suit was brought. I delivered it up in September.

Q. September, 1899? A. Yes sir; during the week between the 10th and 17th.

Q. And you say that you did not at your first visit, or at any other visit, claim that Mr. Cummings had an assignment from George B. Edmonds, deceased? A. I never entertained any question on that. It was not George B. Edmonds, it was Judge Edmonds, the brother of George B.

Q. Did not Mr. Moyers remark after a statement of the kind I have indicated, that Edmonds could not give an assignment, that he was insane at the time? A. There was no talk about George 90 B. Edmonds' assignment. He never mentioned the fact that he was insane. I did not know that he was insane; I did not know anything about it. It was Judge Edmonds, the ex-Commissioner. The question of his insanity, or his ill health never was under discussion between Col. Moyers and myself.

Q. How long have you practiced before the Court of Claims? A. Since 1887, 1888 or 1889.

Q. Do you recall the date of the Bowman act? A. On March 3rd, 1883.

Q. The claims that you have spoken of as contained in the list that you have mentioned—were they claims arising under the Bowman act? A. Under the Bowman act and two or three I think in the appropriation under the act of March 3rd, 1887, the Tucker act it is called.

Q. How long were adjudicated claims under the Bowman act awaiting appropriations by Congress?

Mr. TUCKER: Objected to as beyond the scope of the direct examination.

A. From the 3rd of March, 1891, until the 3rd of March, 1899.

Q. No appropriations were made during that period? A. No appropriations were made.

Q. Have any claims been adjudicated under that act? A. None whatever.

Q. Have you any personal interest in this claim? A. No, sir; only as counsel, as yourself.

Q. Then you are of counsel for Mr. Cummings? A. I am with Messrs. Davis and Tucker.

Q. Beyond that you have no interest at all; —. I never 91 heard of them until Mr. Cummings brought them to my attention.

Q. You have stated that at your first interview with Mr. Moyers you stated to him that the fees were about \$26,000. Please state how you arrived at that conclusion? A. In the first place—I will refresh my memory by a little statement; I had the list of claims from Mr. Cummings in pencil; I then reduced them to pen and ink writing and classified them—the number and date of warrant, names and estates, amount allowed, when paid, the settlement and who drew the money as attorney or claimant. That I had to learn from the auditor of the State Department and the Secretary of the Treasury's offices and the warrant room. Then there are several that were not paid at the time; all those that were paid through Mr. Moyers I found to be—

Q. I did not ask you that. I asked you who told you what the fee was to be in these cases? A. In the contracts which you have had before you this afternoon the fee is stated. Now before I had found that I wrote and stated—or rather I wrote to Mr. Fitzhugh Lee, and he said—

Mr. BIRNEY: I object.

The WITNESS: Well let that go. In every one of those cases there is a contract, and the contract specifies the fee.

Mr. TUCKER: You refer to the cases mentioned in the bill of complaint?

The WITNESS: Yes, sir. Then I simply multiplied the amount paid by the fee and divided it into two parts and the gross fee—

Q. I have not asked you that.

92 Mr. TUCKER: Go on and finish your answer.

Mr. BIRNEY: I shall object to his stating his conclusions. I asked him a specific question.

The WITNESS: I found each claim had a fee or per cent. attached to it; they ran from 33 to 50.

Q. Then your information was derived entirely from the papers which have been offered here in evidence? A. Entirely.

Q. You know nothing then beyond what those papers showed you? A. Nothing except what Mr. Moyers had told me. Some of those cases I had seen in Mr. Moyers' possession and knew about what the fees were.

Q. How did you know? A. I know from what Mr. Moyers had stated himself.

Q. When? A. Well, this was prior to March 3, 1899.

Q. You have not seen him about this case? A. Well, some of them happened to run into this list of Edmonds' claims—these papers here.

Q. Had Mr. Moyers spoken to you about any particular claims there? A. He had spoken to me about the Fitzhugh claim and we spoke about the Anna Hunt claim of Rodney. He said that Mr. Edmonds had nothing to do with that claim.

Q. That was at your meeting with him in June? A. That was at my meeting with him in June.

Q. At the meeting in March had you spoken about any of those claims? A. I told you that before March—before the appropriation was made—circumstances that need not be repeated here made me know of certain fees and when I examined those contracts I found that Mr. Moyers and I had talked about the same thing. The Fitzhugh case, for instance, it was merely a coincidence.

Q. Your knowledge was in fact obtained then from these papers?

Q. When were you first employed by Mr. Cummings? A. I went over to see Mr. Moyers perhaps within a week after he engaged me.

Q. That was in June, then? A. That was the first of June, yes sir.

Q. About what time? A. I should say it was the very first of the month.

Q. The first day? A. No sir; I would not specify that *that* it was the very first, for I saw him a number of times I know before July came in.

Q. You would say the first four or five days? A. I would say so. My rule was to call and see him once a week.

Q. Have you anything from which you can refresh your recollection as to the exact time? A. Only the letters that are found in that exhibit. Mr. Moyers would have an appointment with me to call and circumstances prevented his meeting the appointment and then he would write me a note.

Q. But you cannot fix more definitely than you have the occasion of your first visit? A. No sir; I did not consider it material, but after that I called regularly once a week unless I had a note from Mr. Moyers.

94 Re-direct-examination.

By Mr. TUCKER:

Q. You have referred to the fact that in one of your conversations with Mr. Moyers he stated that this schedule attached to this typewritten agreement of February 6, 1888, was a forgery. I wish you would state as nearly as you can recall the exact language that was used by Mr. Moyers in that connection. A. I cannot recall the exact words, only the word "forgery." Mr. Moyers stated that was a forgery; Mr. Edmonds had come into his office and taken his book and written down that schedule from his books.

Q. What did you reply to that? A. I replied to him that that was an hallucination; that Mr. Edmonds had never forged that; that was an original paper. I did not treat that as a fact at all.

Q. When was that conversation? A. That was either the first or second time I called to see Mr. Moyers.

Q. In June 1899? A. Yes sir.

Q. In your subsequent interviews with him did he ever claim or reiterate that that schedule was a forgery? A. That never was brought up again after that; but Mr. Moyers was going over his papers—the Edmonds and the Moyers papers—and when he had completed it then he would be able to inform me just how the case stood and he would be going over his books showing the money that he had loaned Mr. Edmonds.

95 Q. When he made the remark—attached to this agreement of the 6th of February, 1888, was a forgery, did he say anything about any schedule that was actually attached to that typewritten agreement? A. I held it in my hands, and I said "Mr. Moyers that is no forgery;" I said "That is the way it came out; I said There is no forgery about that; well, he repeated that Edmonds came in there and copied it off his book and he could prove it by two of his clerks.

Q. Did he say anything about where the true schedule was referred to in this agreement? A. No sir, he did not say anything about that. He contented himself with saying that it was a forgery and then went on to tell how it was done; he did not give the names of anybody only that Edmonds did it in his office and also from his books—copied the list from his books.

Q. Did you at any time call his attention to the fact that there were in Mr. Cummings' possession the contracts on those claims that Mr. Edmonds had gotten?

Mr. BIRNEY: Objected to as that fact does not appear and the question is leading.

A. I confine myself to the fact that I had the papers in my possession and went into no further details.

Q. These claims mentioned in the bill of complaint were claims filed in the Court of Claims under what act? A. Most every one of them was filed under the act of March 3, 1883, known as the Bow-

man act. Now, I do not know, only from what Mr. Moyers told me, that there were any filed under the other act, but Mr. Moyers said there were two or three claims that he had under the act of March 3, 1887, the Tucker act. That is immaterial because the prosecution is substantially the same. That was the information
96 I got from him and it was volunteered; it came out accidentally in the conversation, but it was immaterial.

Q. At the interview at which Mr. Moyers told you that was a false schedule— A. He did not say false; he said it was a forgery.

Q. I will call it a false schedule or forgery. Did he not produce to you the duplicate of the contract? A. No sir, he produced no paper whatever.

Q. Didn't he inform *me* that he had a duplicate of the contract attached to that list? A. No, sir; he did not.

Q. He said nothing to you about that? A. He said not a word and I did not ask him a word.

Q. Do you know who was present at that interview beside you and Col. Moyers? A. The only person in the room—Mr. Moyers sat at a desk, just as this gentleman is sitting, facing the west; I sat over there on the south, and back of us at a desk at the south wall was Miss Agnes Daley.

Q. Didn't Mr. Moyers go to his safe in your presence and take out a duplicate of this contract. A. He did not get out of his seat. He sat at his seat all the time.

Q. You have not seen in Mr. Moyers' hands the duplicate of that? A. I have never seen in his possession or heard of it through him or anybody else; this is the first intimation that I have had that he has one.

JOHN W. BUTTERFIELD.

Subscribed and sworn to before me this 13th day of December, 1899.

ALEXANDER H. GALT,
Examiner in Chancery.

97 Adjourned until Saturday, December 16, 1899, at 2:30 p. m.

WASHINGTON, D. C., *December 16, 1899.*

Met pursuant to adjournment at the same place.

Present: The same counsel as before.

JAMES B. EDMONDS, a witness produced on the part of the complainant, having been first duly sworn, testified as follows:

By Mr. TUCKER:

Q. State your full name and residence. A. James B. Edmonds; 1625 K street, N. W.

Q. You have been a resident of Washington for some years? A. About 22 years.

Q. And were formerly Commissioner of the District? A. Yes, sir; for some time.

Q. You have been an invalid for some years I believe? A. Yes, sir.

Q. Are you a brother of the late George B. Edmonds? A. I am a half brother.

Q. About when did he die, as nearly as you can recall? A. I should think somewhere about three years ago but I would not be positive as to the date. He died in Virginia and I was in Washington here ill.

98 Q. He was a lawyer by profession I believe? A. Yes, sir.

Q. Engaged in the claims business in this city for some years? A. In this city. He was law clerk in the Land Office and his poor health caused him to resign and ultimately when he got his health—at least partially—he was asked to prosecute a number of claims in different parts of the country—in the Court of Claims I think that is where he told me.

Mr. BIRNEY: I object to that.

Q. That of course goes out. The question is answered without that. Are you familiar with your brother's handwriting? A. Very.

Q. You have seen him write during his lifetime? A. Yes, sir.

Q. Please look at the paper I hand you (exhibiting to witness paper marked for identification H. B. C. No. 1) and state whether or not the signature in the typewritten agreement is that of your late brother, George B. Edmonds? A. I should say it was undoubtedly.

Q. Look if you please at the sheets of paper attached to that typewritten page and state in whose handwriting the names contained on those sheets is? A. (Examining.) It is George's.

Q. You mean, of course, George B. Edmonds. A. Yes, sir.

Q. Tell us, what you know about that paper that you hold in your hand, by which I mean the typewritten agreement and the schedule attached to it? A. Well, I am less positive as to the

identity of papers left in my possession, but I think this is 99 one of the papers that George handed me to put in my safe

as he had no fireproof place in which to put papers and he was accustomed when he had a paper that was valuable, not to keep it himself but come to me if he had no immediate use for it. I have a safe and put it in the safe and let it lie there.

Q. When was this, as near as you can recall—how many years before his death? A. I am not certain as to dates but it laid in my safe for some time; I suppose this is it; it looks like the thing. He talked to me about it and I saw the name of Moyers or some such name—but he told me—

Mr. BIRNEY: I object.

Q. Do not relate any conversation with him. What I want to know is whether you recall putting in your safe at any time for

your brother any paper purporting to be an agreement between himself and one Moyers with a list of claims attached to it?

Mr. BIRNEY: I object to that as leading.

A. As near as I can recollect I had such a document and put it in my safe and it laid there some time?

Q. What did you do with that document? A. I handed it, when I found he had gone insane—to his guardian, Mr. Cummings.

Q. By Mr. Cummings you mean Mr. Horace S. Cummings the complainant in this suit? A. Yes sir, this gentleman here. He came to me and talked about the matter and either in the presence of my brother, I am not certain, I told him.

Mr. BIRNEY: I object to any conversation.

Q. Just state what you did? A. I handed him those 100 things that he might look over them; they might be valuable for George, and then I handed him all the agreements I had for him to take care of and do as he thought best as the guardian.

Q. Will you please look at this book that I hand you (handing witness a book which for the purpose of identification is marked H. S. C. No. 27) and state whether you have examined that book either at present or at any time previous to your testifying now? A. I have just examined it.

Q. Have you examined it in order to see in whose handwriting the entries in that book are? A. I have.

Q. In whose handwriting are those entries? A. In George B. Edmonds'.

Q. I hand you a batch of 24 envelopes, each containing an endorsement, (handing witness papers which have heretofore been marked for identification Nos. 2 to 26) and ask you whether you have examined the endorsements on those envelopes. A. Yes, sir; I have.

Q. In whose handwriting are these endorsement? A. George B. Edmonds', I should think without doubt.

Q. I hand you an envelope containing a printed label reading "If not delivered in ten days return to George B. Edmonds, attorney at law, 128 Corcoran building, Washington, D. C." and ask you to look at the endorsement on that envelope and state in whose handwriting that is? A. (Examining.) George B. Edmonds I should say without doubt.

(The examiner was requested to mark the envelope for identification H. S. C. No. 28, which was accordingly done.)

101 The WITNESS: I think I saw this book in his office; it was a little book like this—I would not be positive about that. That was when he first went into the Corcoran building. He got a book something like that and I presume that is the one, but I would not be positive about it.

Cross-examination.

By Mr. BIRNEY:

Q. At the time you delivered the papers to Mr. Cummings, as testified, how many papers did you deliver to him? A. Well, I cannot state; I delivered all that I thought were any importance in his business affairs.

Q. How many papers belonging to your brother had you? A. Well, at least two or three. I would not be certain about the number but I would say that I remember that there was a contract with a man whose name I have forgotten, something that he had gotten me to keep; there must have been two, and there may have been three, and there may have been four.

Q. Did you keep any of those papers or did you turn them over to Mr. Cummings? A. I think I turned them all over to Mr. Cummings. I intended to if they had any value.

Q. Did you examine them before turning them over? A. No sir; I just examined them, just simply saw from the endorsements that they were in his handwriting and turned them over to him as I received them.

Q. Had you at any time before that examined them? A. Not any further than I would examine them with my brother when he handed them to me; he would tell me what they were and I 102 would take them. I had a pigeonhole in my safe where I put his papers.

Q. Had you done more than to receive them from your brother's hands and at his request put them in your safe? A. Well, I think I examined them in a casual way; looked at them in a casual way, not so particularly as I would if they were concerning my own affairs. I considered them as his matters and I remember particularly inquiring about who Moyers was.

Q. I have not asked you as to a conversation, but have you examined the papers in such wise as to know their contents? A. Naturally I did because I was interested to have him succeed, and was paying his office rent and other bills, and was asking him how he was getting on, and I know that I read over some of his bargains or contracts, and perhaps some of them I did not. I cannot positively state. It has been a long time ago.

Q. How long has it been since he intrusted you with the last of these papers? A. I cannot recall any exact dates, except I know it was prior to the spring of 1893 because since that time I went West to Colorado and came home and was almost directly stricken with paralysis, and I have not had any of these business transactions since.

Q. You have not examined them, those papers from the time you received them down to the time you delivered them to Mr. Cummings, had you? A. Not that I remember.

Q. Did you mark them in any way? A. No sir; just simply laid them in the pigeonhole, so far as I recollect.

103 Q. Then you are unable to say whether the paper shown to you is or is not the paper you had in your safe? A. Well there is the doubt that such time and so long an illness would naturally create. My memory is not so good now as it formerly was. I find myself troubled to fix exact dates in time now and therefore I would not like to be very positive about a particular thing so long ago as that.

Q. Well, that is the case, then, that you do not really know whether that paper is or is not the paper that you had in your safe but you think it is? A. I think it is; I am quite sure it is because it was just like that. I had a conversation that recalls it to my mind—I do not mean to give the conversation. It was something that looked like that but I cannot say. Whether we might not have drawn up a similar one or had a duplicate, and it may be that, I can only say that that looks like it, and I believe it is it.

Q. You did not read it at the time you turned it over to Mr. Cummings? A. I won't state positively that I did or did not.

Q. How long ago was it that you turned it over to Mr. Cummings? A. It was some time prior to the spring of 1893. I date that time from the time I went West. I was taken sick West and came home and had paralysis and since that time I have not done much of anything.

Q. How long before that was it that your brother had put the papers in your possession which you then delivered to Mr. Cummings? A. I would say it was some months but I cannot be positive as to time.

104 Q. Was it some months or some years? A. I would not say some years because he was not in the Corcoran building; when he was in the Corcoran building he was accustomed to come and see me often and I occasionally would see him and talk about his affairs and look his papers over and his books, but I would not like to specify dates prior to the spring of 1893.

Q. That was the time you delivered the papers to Mr. Cummings? A. No, not the time; I say it was prior to that time.

Q. How long had your brother lived in Washington before the spring of 1893? A. He came over some time in the eighties but I cannot be positive as to what year.

Q. You were then living here, were you? A. I was living here, yes, sir.

Q. Where did he have his office at first? A. At first he had no office, except he was law clerk of the Land Office. Mr. Russ Clark, a member of Congress, came to me and said he would like to have my brother—they were political chums and were of opposite politics to me—he would like to have him come to Washington to live, and that there was a clerkship—they wanted a law clerk in the Land Office and he did not know anybody in his district who would fill the bill. I cannot quite fix the date.

Q. Did he not leave valuable papers with you, or those which he

valued from the time he came to Washington? A. No sir; 105 it was after he had gotten out. He might have left some but I do not remember. It was mainly after he set up business in the Corcoran building.

JAMES B. EDMONDS.

Signed by the examiner by stipulation between respective counsel. Sworn to before me this — day of December, A. D. 1899.

ALEX. H. GALT, *Examiner.*

HORACE S. CUMMINGS recalled.

By Mr. TUCKER:

Q. Mr. Cummings you testified at the last session that this agreement between Edmonds and Moyers of February 6, 1888, with the annexed schedule, was handed to you in 1892 by Mr. Edmonds. Which Mr. Edmonds did you mean? A. J. B. Edmonds.

Q. That is the brother of George B. Edmonds? A. Yes, sir.

Mr. BIRNEY: I would like to inquire if the witness brought with him the assignment asked for at the last session?

The WITNESS: I looked for that assignment. I said I had turned it over to Mr. Butterfield. I went to see Mr. Butterfield. I suppose he had turned it over to Mr. Tucker with the papers and I went to see Mr. Butterfield and I understand he said he returned it to me.

Mr. TUCKER: You have not got it?

The WITNESS: No sir; I have not.

By Mr. TUCKER:

Q. Please state whether the paper purporting to be the agreement with the schedule annexed, which has been heretofore 106 marked for identification H. S. C. No. 1, is the agreement and schedule which J. B. Edmonds delivered to you then?

A. It is identically the same paper and in the same condition.

Q. I hand you an envelope which has heretofore been marked for identification H. S. C. No. 23, and ask you whether you recognize that envelope? A. (Examining.) I do. That is the envelope in which the schedule was handed to me.

Q. After the delivery of this agreement and schedule in this envelope to you what did you do with those papers? A. I put it in my safe and it has been there until the present year.

Q. You say you put it. What do you mean by that? A. I put the envelope containing the schedule, as handed to me by J. B. Edmonds, in my safe and it has been there ever since.

Q. Did it include the agreement? A. The agreement.

Q. State whether the typewritten agreement and the schedule were attached together as they are now? A. Exactly as they are now. They have never been disconnected as I know of.

Mr. TUCKER: I offer in evidence the typewritten agreement with the schedule annexed, heretofore marked for identification H. S. C. No. 1, and the envelope heretofore marked for identification H. S. C. No. 28.

Mr. BIRNEY: Counsel for the defendant objects to the admission in evidence of the schedule attached to the agreement, the same not having been sufficiently proven to be a schedule assented to by the defendant at any time as the schedule intended by the typewritten agreement, but has no objection to the typewritten agreement and consents that that be accepted in evidence.

It is hereby stipulated by the solicitors for the respective parties that the envelopes heretofore marked for identification H. S. C. 2 to 26, contained papers purporting to be contracts, and other papers relating to said claims, mentioned in such contracts bearing date in 1886, and also containing other papers relating to such claims; and also papers so endorsed as to indicate the date of the receipt of such contracts.

Mr. BIRNEY: Counsel for the defendant reserves the right of objection to the said papers for want of competency or relevancy.

By Mr. TUCKER:

Q. I understand you to have testified that those envelopes, with their contents, were found by you among the effects of the late George B. Edmonds? A. They were, some 320 more.

Q. Three hundred and twenty more what? A. Corresponding envelopes; those with other claims that are to be or have been considered or rejected, were all similar to these.

Mr. TUCKER: I here offer in evidence the envelopes and their respective contents heretofore marked for identification 2 to 26.

Q. I hand you a book which has heretofore been marked for identification H. S. C. No. 27, and ask you whether you have 108 ever seen that book before? A. (Examining.) I found this in a trunk that belonged to George B. Edmonds with a large number of contracts and correspondence contained in envelopes similar to those put in the case, together with some four or five account books. To study it out, I compared the envelopes with the contents of the envelopes, and the two books—the index—and then the large book and this book.

Q. I hand you another book and ask you whether that is the large book you refer to? A. This is the large book (examining one marked for identification H. S. C. No. 29).

Q. Referring to this so-called large book, just marked for identification H. S. C. No. 29, I ask you where that came from? A. This is the book that came from the trunk containing the papers of George B. Edmonds.

Mr. TUCKER: I offer in evidence the two books last identified,

with such entries therein as relate to the claims described in the bill of complaint and the schedule known as Exhibit No. 1 to such bill of complaint.

Mr. BIRNEY: Counsel for the defendant objects to the admission of the books in evidence, the same not having been connected in any way with the defendant, and as incompetent, they not having been shown to be the regular books of accounts kept in the ordinary course of business by the deceased.

(By Mr. TUCKER:)

Q. Please state whether among Mr. George B. Edmonds' effects you found any other books containing entries relating to the claims mentioned in the bill of complaint in this cause, or in the schedule known as Exhibit No. 1 to that bill? A. That one there (indicating a book with a canvas cover).

109 Q. I hand you the book you have just indicated and ask where that came from? A. I found it in the trunk containing the papers of George B. Edmonds.

Mr. TUCKER: I offer that book in evidence.

The same is marked Complainant's Exhibit H. S. C. No. 30.

Mr. BIRNEY: I object to that on the ground stated in the last objection.

Q. State whether those three books are all the books that you found among the effects of the late George B. Edmonds containing entries of the claims I have just mentioned? A. (Examining.) Yes, sir. The fourth book, which has an index of the cases—just an index of the cases—and this book, are made entirely in the handwriting of George B. Edmonds.

Mr. TUCKER: I offer in evidence the last book identified by the witness and described by him as an index.

Mr. BIRNEY: Counsel for the defendant objects to this book on the same ground.

Q. Are those four books that you have just mentioned all the books that you found among the effects of the late George B. Edmonds, containing entries to the claims I have just mentioned? A. All I know of to this date.

Mr. TUCKER: I offer in evidence the last two books mentioned by the witness and renew my offer of all four of the books in evidence, with such additional explanation as the witness has made of them.

Q. To recur for a moment to your testimony relating to 110 the so-called assignment of these claims by J. B. Edmonds.

Without stating the contents of this so-called assignment, please state the purpose for which the same was procured?

Mr. BIRNEY: Objected to as incompetent, irrelevant and immaterial.

A. After I asked Mr. Butterfield to make a settlement of this matter with Mr. Moyers—I not being able to myself—Mr. Butterfield had—

Q. Do not relate any conversation with Mr. Butterfield. A. Well, in order that he might be able to make a settlement with Mr. Butterfield, as I gathered the impression that he might be able to make a settlement—in order to give him full power to make the settlement with Mr. Moyers, I had this assignment made to me by Mr. Edmonds so that I could make a clear settlement with Mr. Moyers.

Q. Have you made a search since the last session for that assignment? A. I have.

Q. Have you made such search in all places where it would be likely to be? A. I have, and in a good many places where I would not suppose it was likely to be.

Q. How diligent have your efforts been to find it? A. I have looked in every place that I could imagine it would be placed.

Q. Have you been able to find it? A. I have not. I still think I may run across it somewhere.

Q. Please state what that assignment contained?

111 Mr. BIRNEY: Objected to as not sufficient foundation of the proof of the loss of the paper having been made.

A. It read somewhat in this way: For and in consideration of one dollar I, James B. Edmonds, the next of kin and sole heir at law of George B. Edmonds, deceased, do hereby convey, assign and set over to Horace S. Cummings all my right, title, and interest in the estate of the said George B. Edmonds. Signed by James B. Edmonds and witnessed by Lydia M. Edmonds, his wife, and dated—that was some time in June; that is my nearest recollection.

Q. Of what year? A. This present year, after I had tried to make a settlement with Mr. Moyers.

Cross-examination.

By Mr. BIRNEY:

Q. Prior to that assignment George B. Edmonds was indebted to you, was he not? A. He was indebted to me in a small amount.

Q. How much was it? A. I could not tell. I would say perhaps several hundred dollars. I have been his guardian.

Q. Did he leave any other debts? A. None that I know of.

Q. If this suit shall be successful the entire proceeds will come to you? A. As administrator.

Q. And under this assignment you will have the right to retain the whole amount, will you not? A. No; I suppose not. The assignment was given for the purpose of enabling me to make a clean

settlement that would be satisfactory to Mr. Moyers, and I
112 will state further that when the question was raised as to whether that would be sufficient or not to make the settlement, it being told me—

Q. By whom? A. Mr. Butterfield, that he did not think—

Mr. BIRNEY: I object to what Mr. Butterfield may have said.

The WITNESS (continuing): It having been conveyed to me, or the impression having been conveyed that that would not be sufficient, I simply went over to Virginia at the place of his residence and death and took out letters of administration in order to be able to make a clean settlement.

Q. Has Mr. James B. Edmonds any right to claim anything from you from the proceeds of this suit? A. Has he a right to?

Q. Yes? A. I expect he has, as an heir at law.

Q. Was not that assignment made with the understanding that no further claim would be made upon you by Mr. J. B. Edmonds, and that anything that might come from these claims would inure to your benefit. A. We had no understanding at all in regard to anything except that I was to clean up whatever George's estate might be, if there were any outstanding debts or claims. I do not know whether that understanding was in or not but I made that reservation myself.

Q. Was that incorporated in the agreement? A. No, sir.

Q. Then it was a mental reservation with yourself, if there
113 was any reservation? A. No sir; because I told him plainly that there were certain things that I wanted to have settled up. In the first place there was an amount that I thought should be paid to the people who took care of him during his last illness; and the next thing, I wanted to have the lot in the cemetery at Fairfax fixed up in shape, as I thought it should be, and then I understand that there is a doctor's bill over there still outstanding. That was to be paid.

Q. Were you not personally liable for this doctor's bill? A. No, sir.

Q. Were you not responsible to the people who had cared for him in his last illness, of whom you have spoken? A. No sir.

Q. Who are those people? A. A man named Charles Taylor.

Q. Has he proven any claim against the estate? A. He has not.

Q. Then you would regard anything you would pay him as a gratuity? A. In one sense I should, for I think he ought to have it.

Q. Except then for such things as you might choose to pay, it is your expectation that you will keep the proceeds of the suit? A. That is to be settled between Mr. Edmonds and myself.

Q. The assignment in its terms was a complete assignment of all interests? A. It was given as a complete assignment for the purpose of being able to make a complete settlement.

Q. Is that stated on its face? A. No sir.

Q. And according to its terms it is a complete assignment to you of all interest in that estate? A. Simply because no other assignment would enable me, in my opinion, to have made a complete settlement.

Q. But that is the fact, that it is a complete assignment on its face.
A. Yes sir; it was a complete assignment on the face of it.

Q. You have been shown a book which you have spoken of as the docket book, being the book marked H. S. C. 29. Do you know in whose handwriting the entries in that book are? A. I have not the slightest idea, only I know that Mr. Edmonds had a person in there working with him.

Q. This is not in the handwriting of Mr. George B. Edmonds?
A. Not as a rule. I find in places his hand-writing.

Q. In whose hand-writing are the entries in the book, Exhibit H. S. C. 30? A. I cannot tell you. (After examining.)

Q. They are not in the handwriting of George B. Edmonds? A. Not as a rule, I should say not.

Q. Are there any? A. I do not know; I could not say without I looked them all over. If there are any in his handwriting I could tell.

Q. But as far as you have looked through the book you do not recognize any? A. I would not be sure. I think there are some entries there in his hand-writing but I cannot state anything
115 without examining it. I am pretty sure there are some entries there in his hand-writing but I cannot state without making a page for page examination. That book (indicating Exhibit H. S. C. 27) is entirely in his hand-writing.

Q. Have you examined all the entries in H. S. C. 27? A. I think I have examined every individual entry.

HORACE S. CUMMINGS.

Sworn to before me this 16 day of December 1899.

ALEX. H. GALT,
Examiner-in-Chancery.

JOHN W. BUTTERFIELD, re-called for further cross-examination.

By Mr. BIRNEY:

Q. Have you made an examination of your papers and effects to discover whether you have this so-called assignment from J. B. Edmonds to Horace S. Cummings? A. After the session closed on Wednesday I looked for that paper—that assignment—and I did not find it. On Wednesday I came here about five minutes before three o'clock with a bundle of papers and that bundle of papers had been tied up with a red string since the 16th of September, and that I had not looked into until the date I came here. That contained the papers—Mr. Cummings' contracts. I made a mistake there. There were some contracts that I got since my return from Mr. Cummings, and thought they might be wanted hereso I brought them up and delivered them to him. Now I took at that time every paper that I had received from Mr. Cummings and brought it here. It is

116 possible that that paper—I do not say it is absolutely a fact but that is my distinct impression—that I delivered that paper to Mr. Cummings on the 16th of September, Saturday. I went away Sunday night.

Q. Will you make a diligent search among all papers and in every place where that assignment may be apt to be and report at the next session whether you have been able to find it and if you have been able to find it, produce it? A. I will.

JOHN W. BUTTERFIELD.

Sworn to before me this 16 day of December 1899.

ALEX H. GALT,
Examiner-in-Chancery.

(Adjourned until Tuesday at 1 o'clock.)

WASHINGTON, D. C., Dec. 18th, 1899.

Met pursuant to adjournment.

Appearances: On behalf of the complainant, Charles C. Tucker Esquire; on behalf of the defendant, Arthur A. Birney Esquire.

Solicitor for the complainant here produces the assignment referred to in the testimony of the witnesses Cummings and Butterfield, which assignment is dated the 8th day of May, 1899 and purports to be signed by James B. Edmonds, a copy of which here follows:

“Know all men by these presents, that I, James B. Edmonds, of Washington, District of Columbia, the next of kin and sole heir at law of George B. Edmonds, deceased, in consideration of one dollar to me in hand paid, do hereby sell, assign and transfer all my right, title and interest in the personal estate of the said George B. Edmonds, to Horace S. Cummings of the city of Washington,
117 aforesaid, to have and hold the same for his use and behoof forever.

“In witness whereof I set my hand and seal this 8th day of May, 1899.

“(Signed)

JAS. B. EDMONDS.

“Witness:

“LYDIA M. EDMONDS.”

The solicitor for the complainant does not offer in evidence this assignment and will object to its being read on the trial upon the ground that it is wholly irrelevant and immaterial to the issues in this case. He simply produces it in pursuance of the notice heretofore given by the solicitor for the defendant for its production.

Counsel for the defendant here offers in evidence the said document so produced.

Counsel for the complainant objects to it as irrelevant, immaterial and incompetent.

It is agreed that the original of the foregoing document may be retained in the possession of the complainant and that the copy shall be read as though it were the original.

Counsel for the complainant here announced his case in chief closed.

(Adjourned).

ALEXANDER H. GALT,
Examiner-in-Chancery.

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Testimony on Behalf of Defendant.

Filed May 24, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Complainant, }
vs. }
GILBERT S. MOYERS, Defendant. } Equity. No. 20802.

WASHINGTON, D. C., February 15, 1900.

Met pursuant to notice at the office of Messrs. Birney & Woodard, Mertz building, Washington, D. C., on this day for the purpose of taking testimony in behalf of the defendant in the above-entitled cause.

Appearances: On behalf of the complainant, Charles Cowles Tucker, Esquire; on behalf of the defendant, Arthur A. Birney, Esquire.

JOHN C. SCOTT, a witness produced on the part of the defendant, having been first duly sworn testified as follows:

By Mr. BIRNEY:

Q. Please state your name, age and residence? A. John C. Scott, age 36; I am a letter-carrier.

Q. How long have you been a letter-carrier? A. Since July 7, 1896.

Q. Before that time were you ever in the employ of Col. Gilbert Moyers? A. Yes, sir.

Q. Between what dates? A. From about March 1887 until about January 1894.

Q. In what capacity? A. As clerk and stenographer.
119 Q. Where was his office at the time you first entered his employ? A. No. 1305 E street.

Q. Was his office changed at any time during your stay with him? A. Yes, sir; it was changed from 1305 E St. to the Washington Loan and Trust building.

Q. About what time? A. In the latter part of 1891.

Q. Did he afterwards maintain his office in the Washington Loan and Trust building after you left him? A. He did.

Q. Did you know George B. Edmonds? A. Very well.

Q. Where did you see him, and under what circumstances during your employment by Col. Moyers? A. He was in Col. Moyers' office almost daily.

Q. Did you talk with him from time to time? A. Very often. In fact while I was writing on the type-writer he would sit there and talk with me a part of the time when I was not writing.

Q. (Handing witness a paper.) Look at the paper I now show you, marked Exhibit H. S. C. No. 1, A. H. Galt, examiner, in the complainant's testimony and say what you know about that paper—who wrote it and when you first saw it? A. This agreement was written in Col. Moyers' office and I am satisfied that I was the one who wrote it. It was dictated to me and, of course, I wrote it from my notes on the typewriter—the agreement between the two parties.

120 Q. Do you remember it? A. I do.

Q. Was that a single agreement or was it made in duplicate? A. I generally made all of my copies in duplicate. That was the instructions from the Colonel always.

Mr. BIRNEY: The duplicate of this agreement is not at present in the hands of counsel and the witness will be recalled to identify it.

Q. At the time that agreement was signed was there a schedule, or any other paper attached to it? A. No sir; a separate paper. Just the one type-written paper. This schedule was not on it.

Q. The schedule now attached to it was not with it? A. No, sir.

Q. Did you ever see that schedule before to-day? A. No, sir.

Q. Do you know the hand writing in which the schedule was made. A. The hand-writing is Mr. George B. Edmonds'.

Q. You were familiar with his hand-writing, were you? A. Yes, sir.

Q. During the time that Mr. Edmonds was thus visiting Col. Moyers' office what do you know of his getting any money from Col. Moyers? A. He would frequently, every few days, get money in different sums from Col. Moyers.

Q. When did that practice begin, how early, as far as you now recall? A. About a year, I should think, after I went in his office, something like that.

Q. And that occurred before the removal of the office to 121 the Washington Loan and Trust building? A. Yes sir; right along. While he was on E. St. he would come in there very often for money.

Q. What sums do you know of his having obtained? A. He would get sums ranging all the way from \$5, \$10, to \$20 and \$25, on up, and at one time I know he got in the neighborhood of \$400 or \$500.

Q. How frequently did he get those smaller sums? A. I should say about every three or four days.

Q. Did he have any other purpose in coming to the office than to get money; if so what was it? A. I know of no other purpose than to get money.

Q. What were your opportunities to see that he got money? A. He would come in there and ask the Colonel right in my presence for money. Sometimes he would ask me to go to the Colonel and get him money, and on three or four occasions I got money from the Colonel and gave it to him.

Q. Did you ever get money from the bank, at Col. Moyers' instance, to give to Mr. Edmonds? A. I did on two or three occasions. I know I got some from the bank on a check.

Q. Can you now recall the amounts you got from the bank on those occasions? A. No sir, I cannot say the exact amount.

Q. Do you know of Col. Moyers having expended money for Mr. Edmonds? A. Yes sir; I know one time Mr. Edmonds was sick and Col. Moyers having full charge of him, sent for the doctor. I went for the doctor myself. He paid all the doctor's bills and bought him his food and all.

122 Q. What doctor was it? A. Dr. Bulkley.

Q. Where was Mr. Edmonds living, do you know? A. On 12th and F streets, if I remember correctly. I know he did stop there, and I think he was there at that time, and sent down for the Colonel.

Mr. TUCKER: That is northwest?

The WITNESS: Yes sir; right above here.

Q. What do you know, if anything, of any settlement between Col. Moyers and Mr. Edmonds, of their business affairs. A. Mr. Edmonds told me himself very often that he had closed out all his business to Col. Moyers; had disposed of all of it, and he also told me after this large sum of money, between \$400 and \$500 was paid down here, that that settled the whole business; that the Colonel did not owe him any more money.

Q. Where was that payment made? A. In the Washington Loan and Trust building.

Q. About what time? A. It was some time in the spring or summer, to the best of my knowledge, of 1892.

Q. How do you fix the time? A. The only way that I can fix the time is that I know that the Colonel at that time was getting cases ready for me to go down in the Shenandoah valley to take testimony, and we started to fix them in the spring of 1892, and then we did not get ready to go that year; that testimony went over to the next year, and it was during that time that I was busy fixing these papers and abstracts that this money was paid.

123 Q. Tell us in detail just what you know of the payment of that sum that you speak of as a large sum, between \$400 and \$500? A. I know that when Mr. Edmonds came in he told the Col-

onel he wanted to go away for his health and he had to have some money in order to do so, and it would require a good deal, and I know they fixed up the matters there and the Colonel paid him this amount of money, and it was understood that that was the final settlement. Mr. Edmonds agreed to bring the agreement back and release the Colonel in writing from all obligations.

Q. What agreement was he to bring back? A. The agreement disposing of the cases, made in 1888.

Q. The paper that you have already referred to? A. This one, (referring to Exhibit 1).

Q. He was to bring that back and release him in writing? A. Yes, sir.

Q. Did he ever do that to your knowledge? A. Not to my knowledge. I did not see him.

Q. Up to that time did you ever have any conversation with Mr. Edmonds? A. Yes sir; I used to see him very often; in one conversation I said to him "I told you once, didn't I, that you need not be afraid of any money that was placed in Col. Moyers' hands; that you would be sure to get it." He said "I knew that; I knew that the Colonel would not keep a five cent piece that belonged to anybody else."

Q. After this final settlement did he get any more money?
124 A. Not to my knowledge. I do not know that he was ever in there after he got that. I never saw him around afterwards. The only time I ever saw him was on the street.

Q. You never saw him after he got that sum of \$500? A. No, sir.

Q. Do you know whether or not Mr. Edmonds gave any receipts to Col. Moyers for money that he got from him from time to time? A. He gave some receipts.

Q. You would know them if you should see them? A. I would.

Mr. BIRNEY: I will exhibit the letter later.

Cross-examination.

By Mr. TUCKER:

Q. You are the same John C. Scott who made the affidavit on the 19th of September 1899, filed in this suit, are you not? A. Yes sir.

Q. At whose request did you make that affidavit? A. Colonel Moyers.

Q. By whom were you first approached for the purpose of getting you to sign this affidavit? A. I was sent for by Col. Moyers to come and see him.

Q. Who came to you? A. It seems to me it was a letter written, if I am not mistaken.

Q. Who brought the letter? A. The mail carrier, or rather it came through the mail office.

125 Q. Before seeing Col. Moyers in connection with the matter had you a conversation with Mr. Ezra Nat. Hill? A. No, sir.

Q. Have you ever had any conversation with Mr. Ezra Nat. Hill in connection with this matter. A. Mr. Hill tried to get me into conversation at one time and I refused to do so.

Q. You refused at all times to talk with him concerning this case? A. I did—that is to go into any details with him. I simply told Mr. Hill that I knew about it, and that was all.

Q. Mr. Hill was not the man who came to you from Col. Moyers? A. No sir; not at the time that affidavit was made.

Q. When did Mr. Hill come to you? A. Once afterwards.

Q. Did he come from Col. Moyers? A. Not that I know of. If he did I did not know it.

Q. You say you saw Mr. George B. Edmonds in Col. Moyers' office almost daily? A. Yes, sir.

Q. When was that—between what dates? A. March 1887 to 1892—about the summer of 1892.

Q. From 1887 until the summer of 1892? A. Yes, sir.

Q. Do you know what brought Mr. Edmonds to Col. Moyers' office? A. Yes, sir.

Q. What was it? A. To get money.

126 Q. And for no other purpose? A. No, sir.

Q. Don't you know as a matter of fact that Col. Moyers and Mr. Edmonds were engaged together in the prosecution of claims before the Government? A. Together?

Q. Yes? A. No, sir. Mr. Edmonds disposed of his claims to Col. Moyers.

Q. Who drew up this agreement of 1888, you? A. Yes sir; I am satisfied that I did.

Q. Don't you know that from 1888 until 1892 Col. Moyers and Mr. Edmonds were engaged in the prosecution of claims together? A. No sir. Disposition had been made of the claims by Mr. Edmonds to Col. Moyers in 1888, and Mr. Edmonds would draw money from the Colonel under that disposition.

Q. You knew they were partners in the prosecution of those claims between 1888 and 1892? A. Not in partnership, to my knowledge.

Q. You drew up this agreement of 1888? A. I think that it was a general disposition of the business; there was no partnership.

Q. By the agreement of 1888? A. That is what I understood—the disposition of all the business.

Q. You understood that by the agreement of 1888 Mr. Edmonds disposed of all the claims to Col. Moyers? A. Yes, sir. Of course when we take notes and write them out on the typewriter we cannot always remember everything—keep it in our heads.

127 Q. Did you not look at this agreement to identify it a moment ago? A. I did.

Q. And you identified it as the agreement that you drew up? A. I said I wrote it.

Q. And you considered that to be an agreement by Mr. Edmonds to dispose of all these claims? A. Yes sir. I understood at the time that that was the general disposal of all the business.

Q. If that was the general disposal of the business what was the agreement of 1892? A. The agreement of 1892—there was no agreement. It was a final payment by Col. Moyers, between \$400 and \$500, to Mr. Edmonds in full payment of all claims that he transferred to him.

Q. What was the agreement of 1888 a disposal of? A. He had been drawing money from time to time and the Colonel had been giving him money whenever he would ask for it.

Q. So it was agreed in 1888 that Mr. Edmonds would sell all his interest in the claims to Col. Moyers and Col. Moyers did not pay for it until 1892? A. I did not say that. I said he paid for it right along.

Q. He had not completed his payments until 1892? A. No, sir. The final payment was made in 1892, when Mr. Edmonds said he wanted to go away for his health.

Q. Where was the schedule that was to be annexed to this agreement of 1888? A. I do not know anything about schedules.

128 Q. Don't you know that that agreement contained a recital that there is a schedule annexed to it? A. That may be true but the schedule is not annexed.

Q. And you never saw the schedule? A. No, sir.

Q. You never heard any mention of the schedule? A. No sir; I never saw the schedule at all.

Q. What became of this agreement after your transcribed it, whom did you give it to? A. I gave it back to my employer, of course.

Q. You gave it back to Col. Moyers? A. Yes sir and he and Mr. Edmonds transacted their business together.

Q. I wish you would put your memory to work and tell me all of the payments of money that you recall Col. Moyers making to Mr. Edmonds between 1888 and 1892? A. There were payments made at the rate, I should say, of every three or four days.

Q. Of how large a sum? A. Ranging from \$5.00 up to \$25.00.

Q. You say that every three or four days Mr. Edmonds got anywhere from \$5.00 to \$20.00 from Col. Moyers? A. I said from \$5.00 to \$25.00.

Q. He got from \$5.00 to \$25.00 every three or four days from 1888 until 1892? A. Yes, sir.

Q. Do you know whether Col. Moyers in or about 1891 collected any money on a claim or claims in which he and Mr. Edmonds were jointly interested? A. That I could not say.

Q. Do you know whether under the appropriation act of 1891 Col. Moyers received any moneys in claims in which he and Mr. Edmonds were jointly interested? A. I could not say whether there were any of these claims appropriated for at that time or not. I remember the appropriation bill very well—that is the general bill. I do not remember each claim that was in it.

Q. You know that Col. Moyers collected money under the appropriation bill of 1891? A. Yes, sir.

Q. With respect to these small payments of from \$5.00 to \$25.00 that were made by Col. Moyers to Mr. Edmonds every three or four days, I wish you would state if you know why those payments were made? Were they made on the score of charity or part payments? A. Part payments on the business that had been transferred to Col. Moyers.

Q. Part payments on the agreement of 1888? A. Yes, sir.

Q. They were not to be considered as charity? A. No, sir.

Q. Col. Moyers invariably took receipts for the sums paid, did he not? A. I won't say invariably. I know he took some receipts, but I won't say invariably.

Q. Did you ever write out any receipts? A. Not that I know of; I do not think I did.

Q. In the summer of 1892, so far as you could judge, what 130 was Mr. Edmonds' condition mentally? A. He was as sound as you or I are to my knowledge.

Q. You are sure of that? A. Yes sir. I had many conversations with him and arguments on various subjects and I found him always very intelligent in his expression of views.

Q. Where did he live then? A. It seems to me he was up at 12th and F streets.

Q. Do you know his brother, James B. Edmonds, the ex-Commissioner of the District of Columbia? A. No, sir.

Q. You never heard him speak of him? A. No, sir. I have heard him spoken of, from general reputation.

Q. But you never heard George B. Edmonds speak of him? A. No, sir.

Q. Did you ever hear Mr. George B. Edmonds speak of Mr. Horace S. Cummings? A. No, sir.

Q. Did Mr. George B. Edmonds, between 1888 and 1892 have an office anywhere that you know of? A. No sir; not that I know of. He was still living up here at the corner, and would be around on the streets. I would see him on the streets most every time I saw him.

Q. Was he a drinking man? A. I never saw him take a drink in my life from the time I knew him.

Q. You say that in the summer of 1892 you saw Col. Moyers pay to Mr. George B. Edmonds between \$400 and \$500. A. Yes sir.

131 Q. Can you not fix more definitely the sum paid? A. No sir; I cannot. I know it was between those figures.

Q. How do you fix those figures? A. From the simple fact that I heard the amount mentioned but I could not say the amount exactly.

Q. Did you see the sum paid? A. Yes, sir; I saw it paid.

Q. Was it paid in cash or by check? A. It seems to me it was paid in cash.

Q. Did you draw the money for Col. Moyers from the bank to pay it? A. No sir; not at that time. It was before that that I drew some checks.

Q. You do not know where Col. Moyers got the \$400 or \$500? A. He got it out of his safe.

Q. He kept his money in his safe at that time did he? A. Some he would, and some he kept in the bank.

Q. Did he make a habit of keeping that amount of money in his safe? A. No sir; just before putting it in bank.

Q. And you do not know whether he drew that money from the bank, that \$400 or \$500? A. No, sir.

Q. You say you saw the money actually paid? A. Yes, sir.

Q. Did a receipt pass between the parties? A. To my knowledge there was no receipt as to the \$400 or \$500 but Mr. Edmonds 132 agreed to bring the agreement in and release Col. Moyers in writing as to all obligations on the claims.

Q. Didn't Col. Moyers at that time have a duplicate of the agreement? A. I do not know. If he did I do not know where it was.

Q. Nothing was said about this duplicate original that Col. Moyers had? A. No sir, but Mr. Edmonds agreed to bring his agreement in and release the Colonel of all obligations in writing.

Q. In other words he agreed to bring in the agreement of 1888 by which he had disposed of his claims to Col. Moyers and release him under that agreement? A. Release him in writing of all obligations.

Q. What was Mr. Edmonds' condition physically in the summer of 1892 when this payment was made? A. As to his general health? His health was not good.

Q. What was his mental condition? A. His mental condition was all right, so far as I could judge and see.

Q. At or since the time that you signed this affidavit on the 19th of September 1899, did you or have you stated to Mr. Ezra Nat. Hill that you knew at the time of the making of that affidavit that Edmonds was insane? A. No sir, I did not.

Q. Have you at any time since the making of that affidavit discussed with Mr. Hill the subject of Mr. ——. A. (Interrupting.) No sir; I would not discuss any subject with Mr. Hill.

133 Mr. TUCKER: I had not finished my question.

The WITNESS: I thought you were through with the question.

Mr. TUCKER: You knew what the question was going to be?

The WITNESS: You asked me if I had discussed that or any other question with Mr. Hill.

Mr. TUCKER: When you interrupted the question you knew what the question was going to be?

The WITNESS: You had finished as far as I could see.

(By Mr. TUCKER:)

Q. I ask you again, Mr. Scott, and ask you not to reply to the question until it is concluded—have you at any time discussed with Mr. Ezra Nat Hill the subject of Mr. George B. Edmonds' insanity, between 1888 and 1892, or at any other time? A. No sir. I would not discuss any question with Mr. Hill.

Mr. BIRNEY: You may state why, if you wish.

The WITNESS: For the simple reason that I do not consider him a fit man to discuss a question with. He is unsafe and tricky.

Q. Did you know that he had made an affidavit at the same time that you had made your affidavit, and covering the same subject-matter? A. He told me he was going to make one.

Q. Who drew up this affidavit of the 19th of September 1899 that you signed, do you know? A. I wrote it myself.

Q. You wrote it in your hand-writing? A. Yes, sir.

134 Q. (Handing witness a paper.) The affidavit which I now show you is a copy of that? A. (Examining.) No sir. That affidavit—the whole thing was written out in my hand-writing and was put in type by the young lady in Col. Moyers' office.

Q. But as I show it to you now it is an exact transcript of your hand-writing? A. Yes, sir.

Q. Of the agreement that you wrote? A. The affidavit that I wrote, yes sir.

Q. Now let us understand each other. You wrote this affidavit out in your own hand-writing? A. I did.

Q. And this typewritten affidavit which I show you is an exact copy of what you wrote out yourself? A. Yes, sir.

Q. Do you remember whether at any time Mr. George B. Edmonds was confined in St. Elizabeth's asylum for the insane? A. Not that I know of. I never heard of it.

Q. Has Col. Moyers, or anyone on his behalf, intimated to you that you would be paid for this testimony? A. No, sir.

Q. You received no intimation from any source that you would be compensated in any way for your testimony in this case? A. No, sir; in no way shape or form.

Mr. TUCKER: That is all.

135 Mr. BIRNEY: I desire to state that I will recall this witness later to identify some papers.

Mr. TUCKER: I reserve the right then of further cross examination.

JOHN C. SCOTT.

Subscribed and sworn to before me this 15th day of February, A. D. 1900.

ALEXANDER H. GALT,
Examiner-in-Chancery.

(At this point an adjournment was taken until to-morrow, Friday, February 16th, 1900 at 12:30 p. m.)

WASHINGTON, D. C., *February 16, 1900.*

Met pursuant to adjournment.

Appearances: On behalf of the complainant, Charles Cowles Tucker, Esquire; on behalf of the defendant, Arthur A. Birney, Esquire.

JOHN C. SCOTT, re-called for further direct examination.

By Mr. BIRNEY:

Q. I show you now five papers, fastened together, purporting to be receipts from George B. Edmonds to Col. Moyers and ask you if you know the hand-writing to those receipts? A. (Examining papers.) I do.

136 Q. Whose hand-writing is it? A. Mr. George B. Edmonds.

Q. Is the signature to them his? A. Yes, sir.

Mr. BIRNEY: I will describe these receipts and then offer them in evidence. They are receipts for money as follows: being money passing from Col. Moyers to George B. Edmonds: one for \$50, dated May 19, 1892; one for \$20, dated June 11, 1892; one for \$25, dated June 18, 1892; one for \$10, dated July 11, 1892 and one for \$15, dated July 23, 1892.

(The papers referred to are marked Defendant's Exhibits J. C. S. 1, 2, 3, 4 and 5 respectively.)

Mr. BIRNEY: I desire to state that I have not the agreement mentioned in the proceedings of yesterday; the witness has not been able to find it, but I will agree that he may be recalled at a future time to identify it, when it is found.

By Mr. BIRNEY:

Q. After the time in 1892 when you witnessed the payment of the large sum of money, between \$400 and \$500 from Col. Moyers to Mr. Edmonds, did Mr. Edmonds at any time perform any service in any of the cases? A. No sir, he did not, not up to the time I left there.

Q. Are you aware whether any testimony had been taken in any of the cases prior to the time of that settlement? A. No, sir.

137 Q. What do you mean; that no testimony has been taken? A. None had been taken.

Cross-examination.

By Mr. TUCKER:

Q. Do you know anything of the circumstances under which any of these receipts were given? A. They were simply given for the receipt of money that was paid by Col. Moyers to Mr. Edmonds.

Q. Do these receipts represent any of the moneys that were paid, according to your previous testimony, on account of the sale by Mr.

Edmonds to Col. Moyers of his interest in these claims? A. It was money that Mr. Edmonds would ask the Colonel for from time to time.

Q. These receipts represent part of that money so paid? A. Yes, sir.

Q. I observe by the receipt dated July 23, 1892, which reads as follows: Received of G. Moyers fifteen dollars which I agree to pay two weeks from to-day." Signed Geo. B. Edmonds—that the money advanced on that day appeared to have been a loan. Why did you state that that was paid on account of this alleged sale? A. Well, that was the understanding that it was paid on account of the alleged sale.

Q. Notwithstanding the way the receipt reads you adhere to your statement that that was paid on account of the alleged sale? A. I do not know why he should make the receipt in that style.

Q. I observe by the receipt dated July 11, 1892, that Mr. 138 Edmonds agreed to pay, or to re-pay, the \$10.00 which was borrowed that day to Col. Moyers one week from the date of the receipt. Can you explain why the receipt read in that way? A. Just as I said in my previous answer.

Q. I observe by the receipt dated June 18, 1892, that Mr. Edmonds states "Received of G. Moyers twenty-five dollars which I agree to put in a note when he lets me have what he says he can let me have." How do you explain the language of that receipt if the money was paid on account of this alleged sale? A. I cannot say anything about that. I do not know why he made his receipt in that manner. I always understood it was money paid on account of the sale. That was the only way I understood the matter all the way through. I know when Mr. Edmonds would come in and ask for different amounts of money he would make that remark.

Q. Don't you know that Mr. Edmonds frequently borrowed small sums from Col. Moyers, promising to pay those sums back? A. Not to my knowledge he did not.

Q. And you are satisfied that all those payments were made on account of this alleged sale, notwithstanding the language of the receipts? A. I am.

Q. I observe by the receipt of June 11, 1892, for \$20, that Mr. Edmonds agreed to put the \$20 received then in a note "with others that he has let me have at any time." Can you explain that language? A. The same answer. I can say no more.

Q. By the receipt dated May 19, 1892, Mr. Edmonds agrees to put the \$50 then borrowed "in a note when he lets me have 139 the balance." Can you explain that language? A. The same answer.

Q. When was this sum of \$400 or \$500 paid by Col. Moyers to Mr. Edmonds? A. To my knowledge it was in the summer of 1892.

Q. I have here a receipt dated July 23, 1892. Was it before or after that date? A. I could not say as to dates. I know it was in

the summer of 1892 but I could not say as to whether it was in June, July or August.

Q. And you do not know whether it was before or after the date of this receipt of July 23 1892? A. No sir, I do not know.

Q. You have already testified that after the payment of this \$400 or \$500, that so far as you know, Col. Moyers and Mr. Edmonds had no financial transaction? A. I did; so far as I know.

Q. So, therefore, the \$400 or \$500, so far as you know, was paid after the date of this receipt of July 22, 1892? A. Yes sir; so far as I know.

Q. Have you any way in which you can refresh your recollection as to when this \$400 or \$500 was paid? A. Well as I stated yesterday, I know it was in the summer of 1892 that it was paid from the fact that I was preparing abstracts in certain cases down in the Shenandoah valley in which I was to go down as commissioner.

Q. Was it before you went down there? A. I did not go that summer; we did not get the cases ready and the attorney from the department could not go. But it was during that time—during the time I was preparing this case that this money was paid.
140 I did not go until the year following, 1893, on account of not having been able to get the attorney from the department.

Q. What sort of work were you doing in those cases? A. Commissioner's work; taking testimony.

Q. Can you name any of the cases? A. Well, you have me now. If I had my little book with me I could give you all of them.

Q. Can you refresh your memory from that book and fix the dates? A. I can from my little book that I have at home in my trunk. I can get the name of every case.

Q. By means of that little book can you refresh your memory as to the date that this money was paid? A. I do not know that I could do that for the simple reason that the memoranda on this little book where I have each case, were made in 1893 when I went down there, and as I took the testimony in the cases.

Q. Can we not refer to the records of the Court of Claims and ascertain when this testimony was taken by you? A. The books will show that.

Q. Where were you when this \$400 or \$500 was paid to Mr. Edmonds by Col. Moyers? A. Right in Col. Moyers' office.

Q. Where was that? A. In the Loan and Trust building.

Q. Do you remember the floor? A. The third floor.

Q. How many rooms did Col. Moyers have? A. Four.

Q. Which room did he occupy? A. The last room, from the hallway.

141 Q. Was the money paid in that room? A. To my knowledge, yes, sir. He had his desk in the center of the floor and my desk was in the window.

Q. Was your desk in that room of Col. Moyers'? A. It was, all

the time I was with him, in the Loan and Trust building. His desk was in the middle of the floor and mine was in the window.

JOHN C. SCOTT.

Subscribed and sworn to before me this 16th day of February, A. D. 1900.

ALEXANDER H. GALT,
Examiner-in-Chancery.

THOMAS DANT (colored), a witness produced on the part of the defendant, having been first duly sworn, testified as follows:

By Mr. BIRNEY:

Q. Where do you live? A. I live at 130 Pearce Street court between N. Capitol and First street.

Q. What is your business? A. I ain't got no business now. I have been ruptured and can't work any.

Q. Do you know Col. Moyers? A. Yes, sir.

Q. Did you ever work for him? A. Yes, sir.

Q. When? A. I worked for him since 1872 until 1894, I 142 believe.

Q. Were you with him at his office at 1305 E street? A. Yes, sir.

Q. Did you afterwards go with him to the Loan and Trust building? A. I used to go over there frequently after I got so I could not work, and climb steps.

Q. Were you employed by him after he went to the Loan and Trust building or not? A. No, sir; just go occasionally to see him. I had met Mr. Edmonds many times.

Q. Did you know Mr. George B. Edmonds? A. Yes, sir.

Q. You met him while you were working for Col. Moyers? A. I met him down at 1305 E street, yes sir.

Q. While you were at 1305 E street did you ever see Col. Moyers give him any money? A. I have.

Q. How frequently? A. Well, I cannot exactly say how many times but sometimes he didn't get any and sometimes he did.

Q. Do you know how much he gave him at any time? A. I remember one time his getting \$20.

Q. Did you have a talk with Mr. Edmonds after Col. Moyers had left 1305 E street in about the year 1892? A. I did at the corner of 12th and F streets.

Q. Please state just what that conversation was, what Mr. Edmonds told you? A. He was asking me if the Colonel was in town;

I told him I didn't know, I thought the Colonel had gone 143 away. He said "Well, I have closed all my business with the Colonel; I made a final settlement."

Q. Was anything else said? A. He said, I think, "I am going away in a few days."

Q. Did he say anything more about it than that? A. No, sir. He bid me bood-bye. I was not very well myself and he was in kind of a hurry I believe to go some place. He stopped up here some place on F street.

Q. You mean he lived there? A. Yes, sir.

Cross-examination.

By Mr. TUCKER:

Q. Where was it that you had this conversation with Mr. Edmonds? A. At 12th and F streets.

Q. Is that where he lived? A. He lived up there somewhere on F St.

Q. Between what streets? A. Between 12th and 13th streets.

Q. Now, at the time of this conversation where was Col. Moyers' office? A. In the Loan and Trust building.

Q. How long had he been there? A. About a year.

Q. He went from E street to the Trust building? A. He went from 1305 E street to the Loan and Trust building.

Q. How came it that Mr. Edmonds told you about his business relations with Col. Moyers? A. Well, he knew me very 144 well; I have done a little business for Mr. Edmonds when he would come in the office sometimes.

Q. What sort of business? A. Go out and get lunch if he wanted it, or anything like that.

Q. Were you working for Col. Moyers at the time of this interview? A. No sir; I was not working for him in the Loan and Trust building but I was working down at 1305 E street.

Q. What sort of work did you do for him? A. I got the mail and cleaned up the office, and went to the departments and carried letters and things like that, to different places.

Q. At this interview I understand you that Mr. Edmonds told you that he had closed out all his business with Moyers? A. He told me he had closed up his business with Col. Moyers. Col. Moyers had closed up with him.

Q. He had made a *fine* settlement, did you say? A. He made a final settlement.

Q. Did he say how much he had received from Col. Moyers? A. He never told me that, no sir.

Q. Did he say what sort of business he had had with Col. Moyers that was settled? A. No, sir. I know it was transferring his business over to the Colonel.

Q. What sort of business was it he transferred? A. Claims.

Q. How did you know that? A. I was in office long enough to know it.

145 Q. Did Mr. Edmonds have a desk in Col. Moyers' office? A. No, sir; if he did I never saw it.

Q. Then how do you know what sort of business Mr. Edmonds

was doing? A. I would be in there when he would be in there making the agreement with the Colonel.

Q. What sort of an agreement? A. For a sale of his business out to the Colonel.

Q. Oh, you were present when some agreement was made between them to sell out to the Colonel? A. Just hearing them talking. I was doing my business; sometimes I would be copying off copies.

Q. What agreement did they make? A. I do not know exactly what agreements were made. I only know they were talking in that way.

Q. But you do not know what was said? A. No, sir.

Q. How do you know they were making an agreement by which Mr. Edmonds was to sell out? A. My ears were open to hear them speaking.

Q. Can't you tell us something that was said? A. I told you that Mr. Edmonds told me that he had closed out all of his business to the Colonel.

Q. I am referring now to the talk you overheard in Colonel Moyers' office. This other interview was at 12th and F street. A. He was asking the Colonel often to buy his business out and the Col. asked him how much did he want for it, and then I had to go off somewhere else and didn't know what went on afterwards.

Q. That is all you heard. You did not hear any figures
146 mentioned? A. No, sir.

Q. How many times did Col. Moyers pay money to Mr. Edmonds in your presence? A. I do not know exactly but I know of his paying him \$20 once in my presence.

Q. Was that in cash or by check? A. In cash I think.

Q. At the E Street office? A. Yes sir.

Q. Do you know whether Mr. Edmonds gave any receipt for it? A. I do not know sir.

Q. Was that paid do you know, on account of any transfer or sale by Mr. Edmonds to Col. Moyers of the business? A. I could not tell that either.

Q. Do you know whether in 1891 or 1892 Col. Moyers collected any money on account of any claims in which he was interested with Mr. Edmonds? A. No, sir.

Q. What sort of looking man was Mr. Edmonds? A. He was a low set man not over heavy.

Q. How old a man apparently? A. I could not say exactly how old he was.

Q. Did he have a smooth face or beard? A. Smooth face—well, he didn't have exactly a smooth face; he had beard.

Q. Where was his beard? A. That I do not remember now, how his beard was.

147 Q. What color beard was it? A. Kind of grayish.

Q. Was he an old man, or a young man or a middle-aged man? A. He was not a young man.

Q. Was he an old man? A. He was a settled man, a middle-aged man.

Q. What was the condition of his health apparently in 1892, or when you had this conversation with him at 12th and F streets?
A. He seemed to be in pretty good health.

Q. Was he pretty alert mentally—pretty quick mentally?
A. Well, he was in a pretty good plight, yes sir.

Q. He would step along briskly? A. Yes, sir.

Q. He did not seem to be ailing in any way? A. Not as I know.

Q. He was perfectly clear in his talk with you? A. Yes, sir.

Q. How old are you? A. I am fifty-nine years old.

THOMAS his
mark. x DANT.

Subscribed and sworn to before me this 16th day of February,
A.D. 1900.

ALEXANDER H. GALT,
Examiner in Chancery.

(Adjourned until Monday next, February 19th, 1900 at 12:30 p. m.)

148

WASHINGTON, D. C., *February 19, 1900.*

Met pursuant to adjournment.

Appearances: On behalf of the complainant, Charles Tucker, Esquire; on behalf of the defendant, Arthur A. Birney, Esquire.

Whereupon, owing to the illness of the defendant, adjourned until Wednesday next, February 21, 1900, at 12:30 p. m.

ALEXANDER H. GALT, *Examiner.*

149

Filed May 24, 1900.

In the Supreme Court of the District of Columbia, Holding an
Equity Court for said District.

CUMMINGS } vs. Moyers. } Equity. No. 20802.

Testimony for and on behalf of the defendant by me taken, signed, sealed, and this 24th day of May A. D. 1900, by me delivered to the clerk of the supreme court of the District of Columbia.

MASON N. RICHARDSON,
Examiner-in-Chancery.

Fee \$150. not paid.

11 witnesses;

11 exhibits.

MASON N. RICHARDSON, *Examiner.*

150 In the Supreme Court of the District of Columbia, Holding
an Equity Court for said District.

CUMMINGS)
vs. } Equity. No. 20802.
MOYERS. }

DISTRICT OF COLUMBIA, *To-wit*:

Be it remembered that at an examination of witnesses begun on the 21 day of February and continued from time to time until the 23rd day of May 1900, when the within depositions were taken, I, Mason N. Richardson, an examiner-in-chancery, did cause to be personally present, Ezra Nat Hill, Geo. W. Z. Black, Christopher N. Wilson, John C. Scott, Thomas J. Healy, V. B. Edwards, P. E. Dye, Cyrus Snyder, John C. Chaney, George W. Taylor, and Gilbert Moyers, Horace S. Cummings and John W. Butterfield;

And counsel for complainant had due and sufficient notice.

MASON N. RICHARDSON,
Examiner-in-Chancery.

151

WASHINGTON, D. C., *February 21, 1900.*

Met pursuant to adjournment.

Appearances: On behalf of the complainant, Charles Cowles Tucker, Esq.; on behalf of the defendant Arthur A. Birney, Esq.

EZRA NAT HILL, a witness produced on the part of the defendant having been first duly sworn, testified as follows:

By Mr. BIRNEY:

Q. Please state your age, residence and occupation? A. I am nearly 69 years old; residence Washington, D. C.; occupation, lawyer.

Q. In the prosecution of your business as a lawyer have you devoted yourself to business in the courts or claims before the departments? A. Claims before the departments.

Q. And in the Court of Claims? A. Yes sir; I have a license to practice in the Court of Claims and in the Supreme Court of the United States.

Q. Do you know Col. Gilbert Moyers? A. Yes, sir.

Q. How long have you known him? A. About thirty years.

Q. Have you during the past ten or twelve years had desk room in his office; if so, what room and where? A. I had desk room at 1305 E street, N. W. in Col. Moyers' office for several years; I cannot tell exactly the date but I know it was up to 1890 and previous to that time for some years.

152 Q. Did you go with him after his removal to the Washington Loan and Trust building? A. I did not.

Q. Did you know the late George B. Edmonds? A. Yes sir; I knew him only by meeting him in Col. Moyers' office.

Q. Did you become acquainted with him through his coming in there? A. I did.

Q. Won't you tell us what you know of the payment by Col. Moyers to Mr. Edmonds of money from time to time? A. I saw Col. Moyers pay Mr. Edmonds money at various times in the office of 1305 E. street, and usually I think Mr. Edmonds gave a receipt for it.

Q. Did you know what it was for? A. I did not.

Q. Did you hear any conversation between them about it, or did Mr. Edmonds tell you anything about it? A. Well, Mr. Edmonds never told me anything about it. Col. Moyers said it was—

Mr. TUCKER: I object to anything that Col. Moyers may have said.

Q. Was it said in Mr. Edmonds' presence by Col. Moyers? A. I could not testify positively as to that; it might have been in Mr. Edmonds's presence, and might not.

Q. Can you refresh your recollection sufficiently to state? A. I do not know, sir; it might have been, and probably was, in Mr. Edmonds's presence because I had my *my* desk—the office was 153 not as large as this room—I had my desk in it; Col. Moyers occupied another. I was in this corner (indicating) and he was in that over there, and it might have been in Mr. Edmonds's presence but I cannot say positively.

Q. What amount of money did you know Col. Moyers to pay Mr. Edmonds? A. Well, I could not testify as to that. I know that at different times he paid Mr. Edmonds different sums of money at the office there; I saw the money pass between the two parties.

Q. Did you visit Col. Moyers' office after he removed to the Washington Loan and Trust building? A. Almost every day.

Q. You may state whether you saw any money paid by Col. Moyers to Mr. Edmonds at his office in the Washington Loan and Trust building? A. I never but once saw any money paid after he went to the Washington Loan and Trust building.

Q. How much did you see paid then? A. I saw \$500 paid.

Q. Do you recollect any of the circumstances surrounding that payment—any statement that was made by the parties, or either of them, at the time? A. I was present when money was paid. Col. Moyers had four rooms there in the Washington Loan and Trust building and the largest room was the one that he occupied himself, and I was in there when the money was paid; I saw him pay it; there was some conversation. You must understand that it was a matter in which I had no personal interest at all and I paid no particular attention to the conversation. I remember this, that after the money was paid Col. Moyers made a statement to me—if that can be admitted as testimony.

Mr. TUCKER: I object to it.

The WITNESS: I do not know whether Mr. Edmonds was present or not when he made it.

Mr. TUCKER: I object to it.

Q. How soon after the payment? A. Immediately after the payment and Col. Moyers said—

Mr. TUCKER: I object.

The WITNESS: Immediately after that payment—

Mr. TUCKER: I object to the statement made by Col. Moyers as the witness has said that he is not positive that Mr. Edmonds was present at the time.

The WITNESS: I cannot positively say that Mr. Edmonds was present. Col. Moyers said that he had bought Mr. Edmonds's business entirely.

Mr. TUCKER: I renew my objection to this last statement of the witness and shall ask at the hearing that it be stricken out on the ground that the witness is not positive that Mr. Edmonds was present at the time the alleged statement was made by Col. Moyers.

The WITNESS: I do not say that he was not present; he might have been.

(By Mr. BIRNEY:)

Q. What if anything did you hear Mr. Edmonds say about bringing in any paper or receipt or release? A. I heard Mr. Edmonds say that he would bring all the papers to Col. Moyers; I heard that very distinctly.

Q. Was that at the time of the payment? A. At the time of that payment.

155 Q. Did you know from those parties at that time how they were interested, and what they were interested in? A. Yes sir; because I had read an agreement between the parties made in 1888, I think; I cannot be positive as to dates—as to a partnership-agreement by which Col. Moyers was to take charge of Mr. Edmonds' business. I know that Col. Moyers had agreed to take charge of Mr. Edmonds's business and conduct it for him. I knew that in 1888, when I was in the office with Col. Moyers.

Q. State whether in the conversation at the time of the payment of the \$500 by Col. Moyers to Mr. Edmonds there was anything which directed your attention toward this agreement? A. I cannot recollect. You must understand that it is a long time ago.

Q. Did you know of any other business affairs between them? A. I did not.

Q. You have stated that before that time you had frequently seen Mr. Edmonds in Col. Moyers' office? A. Very often, at 1305 E street; I frequently saw Mr. Edmonds there.

Q. After that did you frequently visit Col. Moyers' office in the Loan and Trust building? A. I was in Col. Moyers' office two or three or four times every week.

Q. Did you ever see Mr. Edmonds there after this payment of the \$500? A. I did not.

Q. Did you know the nature of these claims? A. I do not know that I knew; I supposed they were the ordinary claims 156 against the Government for depredations in the South, such as Col. Moyers was conducting, and such as I was conducting.

Q. Those were known as claims under the Bowman act Congressional cases, as they were termed among the agents? A. Yes sir, that is what I supposed they were.

Q. And they were to be prosecuted first in the Court of Claims, were they not? A. Yes, sir.

Q. And after that were to wait for the action of Congress in making appropriation? A. Yes, sir. That was the only kind of claims I knew anything about.

Q. State whether at that time the ultimate collection of those claims was, among lawyers practicing in the Court of Claims like yourself, considered probable or improbable, or certain or uncertain.

Mr. TUCKER: I object to the question on the ground, first, that the witness has not shown himself to be familiar with the character or nature of the claims which Mr. Edmonds and Col. Moyers were engaged in prosecuting and, secondly, because of the fact that the question calls for an expression of an expert opinion upon a subject which does not properly come within the province of expert testimony, and thirdly, because the witness has not qualified himself as an expert upon such subjects, if the subject matter of the question be the subject of expert testimony.

A. In the first place, I will answer the last objection. I was one of a committee of five or seven—I think seven—of the Court of Claims bar which prepared the Bowman act, so that I think I have some right to speak as an expert on that subject, as I was one of the committee.

157 Q. After the passage of the act did you prosecute claims under it? A. I had a great number of claims but I turned them over to one or two parties, either to Col. Moyers or to the firm of Pennybaker & Sons. I never went into the Court of Claims myself though I was licensed in the Supreme Court of the United States and the Court of Claims; I did not go there because I am not much of a court lawyer.

Q. Except for appearing in the court did you continue to collect these claims and prosecute them, and aid in the prosecution? A. Yes sir, and I am continuing now.

Q. Now answer my question of a moment ago as to the uncertainties and the like of those claims.

Mr. TUCKER: The same objection.

A. The Bowman act had been in force for three or four Congresses—that is six or eight years—and there had never been any appropriation made; every one of the gentlemen interested in the prosecution of those claims had used all the endeavors that it was possible for them to use to get bills through, and we have always failed, so that at that time in 1890 (I had one claim of my own, permit me to say, allowed for \$54,875, and it had been allowed eight years, and we never got any appropriation through for anything until the 51st Congress, I think it was—the one that Tom Reed was Speaker of when it got through, and Tom Reed had not been elected Speaker then).

Mr. TUCKER: I object to this last statement relative to any claim of the witness on the ground that it is not responsive to the question and is irrelevant and impertinent.

158 The WITNESS: I am a tolerably good lawyer and know how to answer a question to suit myself, so I pay no attention to the objection.

Mr. TUCKER: These objections are for the court and not for you; entirely for the court.

The WITNESS: I understand, but they do not amount to anything either; I understand that. At that time the claims were not considered at all valuable; I will state that, because there had been no appropriation for eight years after the bill passed.

Q. When was the Bowman act passed? A. About 1882 I think, though I am not positive the records will show that. I know that I spent a great deal of time in trying to get it passed for two years.

Cross-examination.

By Mr. TUCKER:

Q. Do I understand you to say that at the time of this transaction between Mr. Edmonds and Col. Moyers there had been no appropriation for the payment of the Bowman Act claims for eight years? A. I think that is about the time; I did not state it positively as eight years; from the time of the passage of the Bowman act there had been no appropriation at all and there had been no claims paid at all.

Q. What was the date of the Bowman act? A. I stated just now that I thought it was about 1882 or 1883. That is a matter that can be easily determined.

Q. Don't you know that appropriations were made in 1891
159 to pay those claims? A. Of course I do.

Q. Don't you know that appropriations were made in 1891 to pay claims in which Mr. Edmonds and Col. Moyers were jointly interested? A. I do not know anything about Mr. Edmonds' claims: I know that appropriations were made to pay claims in which Col. Moyers was interested.

Q. You know that Col. Moyers received fees from claims that were paid under appropriations made in 1891, do you not? A. certainly.

Q. Do you know whether he paid Mr. Edmonds his share of the fees in the claims that were appropriated for in 1891? A. I never saw Mr. Edmonds after the payment of the \$500 to him in Col. Moyers' office, and I never saw him anywhere else except in Col. Moyers' office in my life.

Q. When was this payment of \$500 made? A. I would not like to say. It was after Col. Moyers moved to the Washington Loan and Trust building; if it had been before that time I could have told the date very nearly but it was after he moved to the Loan and Trust building, and I cannot tell the date.

Q. Was it before or after the appropriation of 1891 to pay claims of this character? A. That I cannot say. I do not know.

The WITNESS: I do not feel very well. I honestly think that it would be better if we could adjourn now. I feel almost like fainting.

160 (At this point, owing to the illness of the witness, the session was adjourned until Monday next February 26th, at 12:30 p. m.)

EZRA NAT HILL.

Subscribed and sworn to before me this 21 day of February, 1900.

MASON N. RICHARDSON, *Examiner.*

EZRA NAT. HILL, a witness heretofore sworn being recalled for cross-examination, testified as follows:

By Mr. TUCKER:

Q. How long was it after Col. Moyers moved to the Washington Loan and Trust building, that you saw him pay \$500.00 to Mr. Edmonds? If you cannot fix the time accurately, give your best recollection. A. I cannot say positively. It may have been anywhere between two weeks and two months. It was not very long after he moved to these offices in the summer of 1891 or 1892.

Q. At the time the money was paid where were you in the room where it was paid, where was Col. Moyers and where was Mr. Edmonds? A. I was in the room when it was paid. In Col. Moyers' own room, they were sitting near the safe in the first part of the room and I was at the back window.

Q. Was there anybody in the room other than you, Col. Moyers and Mr. Edmonds? If so, who was the person or persons? 161 A. There was one, if not more, in the room. I do not remember who they were.

Q. Was the money paid in cash or by check, and if you state it was in cash please state how you know the sum paid was \$500.00?

A. The money was paid in cash. I heard one of the parties say, it was \$500. I don't know which.

Q. If you state the money was paid in cash, please state the denominations of the bills paid? A. I do not know what the denominations of the bills were. I did not examine them.

Q. Did Col. Moyers have the money so paid in his pocket or did he take it from his safe? A. I don't remember. I think from the safe.

Q. Did Mr. Edmonds give a receipt to Col. Moyers for the money so paid? A. I don't know. I only know money was paid and heard the amount stated.

Q. After Col. Moyers removed from his former office 1305 E St. N. W., to the Washington Loan & Trust building, did you have a desk in Col. Moyers' office in the latter building? A. I did not and the statement in my original affidavit to that effect was a mistake made by the typewriter who copied the affidavit which I did not read carefully before signing, supposing that what I had written was properly copied.

Q. Did you in the summer of 1892 see Col. Moyers give \$500.00 to Mr. Edmonds in full settlement for the claims in which those gentlemen were jointly interested under their agreement of 1888, 162 or in full settlement for Mr. Edmonds' interest in any other claims in which Col. Moyers was also interested? A. I think I have already stated that I know very little of the business relations between Col. Moyers and Mr. Edmonds and do not know what any money paid Edmonds was for.

Q. How long and how intimately had you known Mr. Edmonds prior to the time you say you saw Col. Moyers pay him this \$500.00? A. I never to my knowledge saw Mr. Edmonds except at Moyers' office and never spoke to him except at the office.

Q. At the time you saw this payment of \$500.00 made, what can you say with reference to the mental condition of Mr. Edmonds? A. I always thought him a crazy man.

Q. If in reply to the last preceding question you state that in your opinion Mr. Edmonds was then insane, please state upon what this opinion is based?

Mr. BIRNEY: Objected to by counsel for defendant as not relevant to any inquiry made on the examination in chief and therefore incompetent.

A. His manner, his general appearance, the way he talked, his mode of seating himself bowed over with his head in his hands, and his walk.

Q. Are you acquainted with Mr. John C. Scott, now a letter carrier and formerly in the employ of Col. Moyers? A. Yes. I knew him as a clerk in Col. Moyers' office.

Q. If you state you are acquainted with Mr. Scott, please 163 state what, if anything, Mr. Scott has ever said to you with reference to his knowing that Mr. Edmonds was insane,

either at the time of the payment of the \$500.00 in question, or at any other time.

Mr. BIRNEY: Objected to by counsel for defendant as incompetent and irrelevant. No foundation was laid for the inquiry in the examination of Mr. Scott.

A. I went to Mr. Scott, at the request of Moyers, to have him make the affidavit filed with mine in this suit and found him at the city post office. When I told him about my business Scott said "What that crazy fool?"

Q. Did you ever go to see Mr. John C. Scott at Col. Moyers' request to ascertain what Mr. Scott knew about this payment of \$500.00 and if you did, what did Mr. Scott say to you with reference to his knowledge of such payment?

Mr. BIRNEY: Objected to as incompetent by counsel for defendant. The question calls for hearsay testimony.

A. Yes, after the first visit, I went at Col. Moyers' request again to see Scott and to find out whether he saw this payment made. Scott came to my office in answer to a note. I talked the matter over with him and he said he remembered the payment of \$500.00 but did not know what it was for.

Q. Please state whether Col. Moyers, the defendant in this suit, on December 7th, 1899, at his office or at any other time and place told you he wanted some one to swear that Edmonds said he had sold his business to him, Col. Moyers? A. Col. Moyers said in his office that he wanted to employ me in this case and would pay me a good fee. I agreed to accept employment and then Moyers

164 told me he wanted some one to swear that Edmonds said he had sold his business to Moyers—asked me if I would find such a person. I suggested Scott and Tom Dent, his colored janitor, as the most probable persons to have heard such a thing.

Q. If you state that Col. Moyers so told you, state whether you at such time and place or at any time and place told him that Mr. Scott would do this, and if you state that you made such statement to Col. Moyers, state whether or not in response thereto Col. Moyers asked you to see Scott, and state whether you did see Scott and whether Scott told you he would do so? A. Col. Moyers asked me to see both parties. I saw Scott and he said he would see to it. I gave Dent's address to Moyers.

Q. Please state whether or not Scott, when you saw him, if you did see him, after your last mentioned conversation with Col. Moyers, if you had such a conversation, told you when you saw him, Scott, that he Scott wanted \$5.00 or any other amount of money?

Mr. BIRNEY: Objected to by counsel for defendant as calling for incompetent testimony, if offered to impeach Mr. Scott as no foundation was laid for it.

A. Scott came to my office and said he wanted \$5.00 I told him I would try and get it for him and told Col. Moyers. Don't know whether he received it or not.

Q. Did you thereafter see Col. Moyers and tell him Scott would swear that Edmonds told him, Scott, that he, Edmonds, had sold all his business to Col. Moyers? A. Yes.

Q. State whether or not at said last mentioned conversation with Col. Moyers, if you had such a conversation with him, or at any other time, Col. Moyers told you that you must try and get 165 one not in his employ to swear he heard this and that he, Col. Moyers, would pay \$20.00 for it; and if you state that Col. Moyers so told you, state whether or not you told him you would do so?

MR. BIRNEY: Objected to by counsel for defendant as matter not called for by any inquiry on direct examination and therefore incompetent.

A. Yes, Col. Moyers told me he wanted some one outside of his office to swear that he had heard Edwards say that he (Edmonds) had sold his business to Moyers, and that he would pay such witness. Moyers asked me if I could get such witness and I said I could, but had no intention of doing so, as I did not engage myself to do that kind of work for Moyers.

EZRA NAT. HILL.

Subscribed and sworn to before me this 15th day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

WASHINGTON, D. C., *March 7th, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Messrs. Birney and Woodward, Mertz building, 11th and F Sts. N. W., to take further testimony for and on behalf of the defendant.

Present: Mr. Tucker for complainant; Mr. Birney for defendant; Mr. Richardson, examiner.

Whereupon CHRISTOPHER N. WILSON, a witness of lawful 166 age being by me first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please give your full name, age and occupation? A. Christopher N. Wilson, age sixty years, occupation clerk.

Q. Where have you been employed as clerk and for how long have you been employed? A. I am at present employed in Col. Moyers' office and have been for the past year.

Q. Do you know Mr. Butterfield, the gentleman now present? A. Yes sir.

Q. Were you present at an interview between Mr. Butterfield and Col. Gilbert Moyers' during last summer? A. Several times when they had interviews.

Q. Did you hear the conversation that passed between them at any of those interviews? A. Fragments of it, sir. I never paid particular attention to it except some special instance called it to my attention.

Q. Did anything occur at one of those interviews to attract your attention particularly to what was said? A. At one time Mr. Butterfield was there and there seemed to be a rather heated argument over certain matters.

Q. What was said between them? A. I understood Col. Moyers' to say—it was in relation to the payment of some money to a Mr. Cummings, I think it was. I heard him say that he paid him \$500, at one time and various other sums.

167 Q. Did you mean to say that was Mr. Cummings or Mr. Edmonds to whom he paid that money? A. I do not know. It is the gentleman that Mr. Butterfield was representing. It was Mr. Edmunds I think. I would not be positive of that. In fact, I would not recall that had not Col. Moyers spoken very loudly and seemed to be angry.

Q. What did you hear Col. Moyers say if anything, about the contract between him and Mr. Edmunds?

Mr. TUCKER: Objected to on the ground that the declarations of Col. Moyers are incompetent.

A. I heard him say that he thought that he paid him—he thought that he did not owe him any money when he came to straighten up his books and look over his accounts.

Q. Look at the paper which I now show you and say whether you have seen it before and if so, where? A. I have seen that paper repeatedly, sir.

Q. Where? A. It was with a bunch of other contracts that Col. Moyers keeps together—the contracts of his cases—probably he has three or four hundred contracts in the bunch in which that contract was.

Q. And where did he keep this in the office? A. He kept that in his own safe in the front room—that is at times—and at times I had charge of the papers, and I kept them in the safe that I have in the middle room.

Q. Did you ever see any other paper or schedule of any or anything of the kind attached to this? A. No, sir.

Q. Do you know the signature of Gilbert Moyers to that? 168 A. Oh, yes, sir, that is his signature.

Mr. BIRNEY: That is offered in evidence. Ex. M. N. R. 1.

Cross-examination.

By Mr. TUCKER:

Q. Mr. Wilson, as I understand it, these two papers pinned together were seen by you at various times in a package of contracts in Mr. Moyers' safe? A. Yes, sir.

Q. What sort of contracts were these which were included in this package? A. Contracts for the collection and prosecution of claims under the Bowman and Tucker acts. That is the only class of cases which Col. Moyers prosecutes as a general thing.

Q. This was in a package then of contracts in which were reserved Mr. Moyers' rights as to fees? A. As to fees, yes, sir.

Q. And these two papers were frequently seen by you in a package containing a number of other contracts relating to fees? A. Yes, sir.

Q. In this conversation between Mr. Butterfield and Col. Moyers did Mr. Moyers say that if from an examination of his books he found anything to be due the estate of Mr. Edmunds he would pay it? A. I am not aware he said — in as many words as that.

Q. Well, was that the substance of it? A. That was about the substance of it. Of course, I would not have paid any particular attention to this conversation at all had it not been for Col. Moyers getting a little angry.

Q. Did Col. Moyers fix any time when he would state the account? A. No sir, not that I am aware of.

Q. Did he tell Mr. Butterfield, that he, Col. Moyers, was not feeling well or ill at the time, but that he would attend to it at some future time? A. No, sir, he may have had a conversation of that kind, but if so I do not recall it. I only recall this particular instance that I have related about the five hundred dollar incident because the Colonel got very loud and very angry and spoke very angry to Mr. Butterfield. Mr. Butterfield had not been to the office often, and before then he was frequently at his office at New York avenue and 17th street and always seemed to get along very fairly until that interview.

Q. At that interview I believe Col. Moyers said that an agreement which Mr. Butterfield had in his possession was a forgery? A. There was something of that kind. I think it was either a forgery or it was not genuine. I know that there was a dispute about a certain agreement.

Q. Well, did Col. Moyers say that because that agreement was a forgery that he would not pay Mr. Edmunds anything? A. No, sir. I did not get the full gist of the remarks because I was in the room adjoining. I was not in the same room where this conversation occurred. I was probably twelve feet away from Col. Moyers' desk. Col. Moyers sat facing me. In other words, I was in the next room—I guess I was in the next room to his room—but I could look in at all times and see what was going on.

CHRISTOPHER N. WILSON.

Subscribed and signed by me by consent and agreement of counsel this 7 day of March, 1900.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned until Saturday March 10th, 1900, at the hour of 2 o'clock p. m.

MASON N. RICHARDSON, *Examiner.*

WASHINGTON, D. C., *March 10, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Messrs. Birney and Woodward, Mertz building, to take further testimony for and on behalf of the defendant.

Present: Charles C. Tucker, Esq., for complainant; A. A. Birney, Esq., for the defendant; examiner, parties and witness.

Whereupon JOHN C. SCOTT, a witness heretofore sworn was recalled for further examination.

171 By Mr. BIRNEY:

Q. What is your name? A. John C. Scott.

Q. Mr. Scott, look at the paper which I now show you, being Exhibit No. M. N. R. No. 1 and say what you know, if anything, of that paper and by whom it was written?

(Counsel hereupon hands witness an agreement.)

A. Both papers?

Q. Speak of the typewritten paper first. A. The typewritten paper is a duplicate of an agreement I testified to in the first examination or second examination I don't know which.

Q. Written by whom? A. Written by me. It is a duplicate copy of the one I wrote. This manuscript is in Edmunds' handwriting and this was an agreement drawn up by Mr. Edmonds. The Colonel dictated this one in typewriting to me.

Cross-examination.

By Mr. TUCKER:

Q. In whose handwriting is the interlineation in this typewritten agreement? A. That I do not know. I do not know whose handwriting that is in.

Q. All you prepared was the typewritten portion of it? A. Yes, sir, the typewritten portion of it.

Q. Do you know anything about the schedule mentioned in that agreement? A. I never knew of any schedule until the day I saw it in this office when I testified before.

172 Hereupon the witness desiring to make some corrections in the typewritten report of his former testimony made the following statement:

WITNESS: The typewritten report of my testimony taken stenographically on the 15th and 16th days of February and before I sign the same wish to make two corrections therein. On page four I was asked the following question:

Q. How frequently did he get those smaller sums? I am reported as answering: A. I should say about every three or four days. But I meant to say and think I did say: I should say he was in the office about every three or four days.

On page 11 I am made to say or reported as having testified: "He had been drawing money from time to time and the Colonel had been giving him money whenever he would ask for it." But what I meant to say was that the Colonel had been giving him money nearly every time when he would ask for it.

JOHN C. SCOTT.

Subscribed and signed by me this 10 day of March 1900, for the witness by consent and agreement of counsel.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned until March 12th, 1900, at the hour of 2 o'clock p. m.

MASON N. RICHARDSON, *Examiner.*

173 WASHINGTON, D. C., *March 12th, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Messrs. Birney and Woodward, Mertz building, to take further testimony for and on behalf of the defendant.

Present: Mr. Tucker for the complainant; Mr. Birney, for the defendant; the respective parties; examiner and witnesses.

Whereupon THOMAS J. HEALY, a witness of lawful age being first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your age, residence, occupation, Mr. Healy. A. I am forty-nine years old, I believe.

Q. And your residence? A. Jessup, Maryland.

Q. And your occupation? A. Farmer at present.

Q. How long were you or have you been living at Jessup? A. I have lived there off and on since 1880, I think.

Q. Were you ever in the employ of Col. Gilbert Moyers? A. I was.

174 Q. During what years? A. From 1885 up to say 1892.
Q. What time in 1892 did you leave him? A. I think it was some time in August or September to the best of my knowledge now.

Q. Have you any way of fixing that time better, Mr. Healy? A. Well, now, let me see. To a certainty I considered myself out of the office in fact a couple of months before. I did just report.

Q. Please explain what you mean by that? A. Well, I sort of got tired and wanted to go back home. I got tired of Washington work—that kind of work and I just quietly went out.

Q. Then you did not attend upon the office regularly after that? A. After that it was sort of an indifferent manner.

Q. During the last two months? A. Yes, sir. He had three other clerks there—two others I believe.

Q. What was your occupation with Col. Moyers? A. Well, I used to attend to the Congressional matters. I just considered myself a long time a general utility man around Congress and the office.

Q. Did you know George B. Edmonds in his life time? A. Yes, sir, I knew him well.

Q. How long did you know him? A. Well, I knew him probably a couple of years before he came around the office.

Q. When did he begin coming around the office? A. I think it was sometime in 1888.

Q. You knew him a couple of years before? A. Yes sir, occasionally I would see him around Congress there.

175 Q. Do you know anything of a contract made between Col. Moyers and him in 1888? A. Well, I think there was a contract of some kind in regard to some Congressional acts.

Q. You knew of it only in a general way? A. Yes, sir.

Q. Please state what knowledge you have of any payments of money made by Col. Moyers to Mr. Edwards? A. Well, I can only say this, that at times when Edmonds would come in here—whenever he came into the office he always came and generally asked me if Colonel had any money because he knew that I knew because I attended to the safe and if I told him yes, why then he would go in and see the Colonel and the Colonel then came to his door and said "Tom let him have \$25." or whatever it was, for Mr. Edmonds. I would go to the safe and take it out and take it to Mr. Moyers' room and lay it down on his desk and go back to my seat.

Q. How frequently did that happen—would an occurrence of that kind happen? A. Well, I cannot tell just exactly the number of times but it was very frequently because he had told me that—

Mr. TUCKER: Who told you?

WITNESS (continuing): Mr. Edmonds had told me that he had nothing to live on.

Q. Had he said anything to you about how much or how little he depended upon this money from Col. Moyers? A. I think only in a general way. From what he said he was depending upon that to pay his board in fact.

176 Q. Where was he living then? A. Well I think somewhere on the Avenue.

Q. Did you ever go to his quarters to see how he lived? A. I don't think I ever did.

Q. How long to your knowledge did these advances of money by Col. Moyers to Mr. Edmonds continue in relation I mean to the time you left the office? A. Well, I would say very frequently. Of course, he may have come in there while I was out. Of course, I cannot give the time. I never kept any record. I usually kept a record when I paid myself. When I handed it to Col. Moyers I kept no record and therefore I cannot say.

Q. Did these payments continue from time to time up to the time you left the office? A. Pretty much, yes, sir.

Q. Mr. Healy, did you know the general nature of the claims in which Mr. Edmonds was interested with Col. Moyers? A. Yes, sir. I was very familiar with those cases.

Q. You mean all the cases of that class? A. Yes, sir.

Q. What were they called? A. They were the Southern Claims Commission cases.

Q. Please state what you know of the history of those cases?

Mr. TUCKER: I object to that as immaterial and irrelevant and as not the subject of expert testimony. Also on the ground that if they are the subject of expert testimony the witness has not qualified himself to speak as an expert.

Q. Go ahead and state what you know. A. Well, they were 177 cases disallowed by the Southern Claims Commission and reported to Congress disallowed.

Q. How far back was this disallowance? A. Well, probably from the first disallowance in 1872 up to 1880.

Q. Go on. How then did they become revived? A. Well, under the act of March 3, 1887. I think it was called the Bowman act.

Q. 1887 or 1883? A. Yes sir, certain section of the Bowman act. They were by request of the attorneys referred to the Court of Claims.

Q. What force and effect did the findings of the Court of Claims have in those cases?

Mr. TUCKER: Same objection.

A. Well, that was a question for members of Congress to decide. They did pass a bill in 1891 I believe, after eight years of labor.

Q. I thought you said inadvertently 1887. The bill was passed in 1883? A. Yes, sir, March 3, 1883. That was the Bowman act.

Q. Under that act and in that class of cases did the Court of Claims enter judgment upon determining them or simply report to Congress their findings?

Mr. TUCKER: Same objection and I object to that on the further

ground that the best evidence are the records and findings of the Court of Claims.

A. They only reported the facts to Congress.

Q. You were with Col. Moyers at the time of the first appropriation for the payment of such claims in 1891, were you? A. Yes, sir.

178 Q. State if you please, whether in any of the appropriations made in that year Mr. Edmonds was interested or claimed to have an interest? A. Why to the best of my knowledge he had no interest whatever in that appropriation.

Q. Did you ever hear him say anything to the contrary? A. I never heard him say anything to the contrary.

Q. Now, Mr. Healy, you said that these cases were originally before the Southern Claims Commission. Do you know how Mr. Edmonds obtained his information as to those rejected cases. Who, if you know, had lists of those cases.

Mr. TUCKER: Objected to as irrelevant, incompetent and immaterial.

A. Well, we had a printed list in the office of the disallowed claims with the reports from 1871 to 1880, I think, and it was customary for Mr. Edmonds to go over and examine the disallowed report and the list. The list was by States and counties.

Q. What was the form of that list. Book form or otherwise?

Mr. TUCKER: Same objection.

A. Book form.

Q. Book form? A. Yes sir, printed by the Government Printing Office.

Q. To what extent did you observe Mr. Edmonds studying that list or taking a memorandum from it?

Mr. TUCKER: Same objection.

A. Well, he had it examining the list very much all the time when he was in there.

179 Q. Do you know whether he had a list of that sort of his own? A. No, sir.

Q. From anything he said? A. He could not possibly have had one. If he had he would not have come in the office, I don't think, to examine that one.

Q. Have you had any business relations or have you had any employment with Col. Moyers since you left his place in 1892? A. None whatever.

Q. Mr. Healy, are you familiar with the signature of Col. Moyers? A. Yes, sir.

Q. Are you familiar with the handwriting of George B. Edmonds? A. I have seen a great deal of it.

Q. I show you now three checks appeared to be dated respectively

December 5th, 1891, December 10, 1891, and January 16, 1892, and ask you if you know the signatures and the endorsements? (Handing witness the checks.)

Mr. TUCKER: Objected to on the ground that the witness has not qualified himself to speak concerning the writing or the handwriting of Col. Moyers or of Mr. Edmonds.

A. I am familiar with Col. Moyers' writing. These are the signatures of Col. Moyers. The signatures on these checks are Col. Moyers'. The endorsements on the three checks are in the handwriting of George B. Edmonds.

Mr. BIRNEY: I offer the three checks in evidence and ask the examiner to mark them respectively as Defendant's Exhibits Nos. M. N. R. Nos. 2, 3 & 4.

180 Cross-examination.

By Mr. TUCKER:

Q. Mr. Healy, how do you fix the time when you left Col. Moyers' employment? A. Well, I could fix it if I brought in some letters.

Q. How do you fix the months of August and September, 1892, when you left him? A. Well, it was getting along toward crop time. I was out there pretty much all the time. That is, for a couple of days at a time.

Q. Has anybody connected with this case recently mentioned the date of the summer of 1892 to you? A. No, sir; I have not.

Q. Before your examination or after? A. I don't think—no date has been fixed as to summer of 1892 or any summer.

Q. So in no recent conversation today, or at any other time, has the summer of 1892 been mentioned to you? A. No, sir.

Q. When was it that you ceased to be paid by Col. Moyers for your services? A. Well, let me see now. The difficulty was that I never received my salary by the month. Sometimes it would go on two or three months and Mr. Moyers would hand me \$100 or \$50, and I would credit that amount on the salary.

Q. When did you last cease to be his salaried employé? A. Well, I think probably in September.

Q. You stated that two or three months before that time you considered yourself not in his employ? A. Not regularly. That 181 is, I was there, but not attending to business because he had others there.

Q. You were paid for that time? A. I did not claim any. I did not get any and never asked for any.

Q. How often would you be in the office prior to September, 1892? A. I was there all the time. I slept there in the back room. I had a room there.

Q. How much were you there during the day? A. Well, I was there probably four or five hours.

Q. Where was Col. Moyers' office at that time? A. 1305 E street to the best of my recollection.

Q. So when you left Col. Moyers' employ his office was at 1305 E street? A. Yes, sir.

Q. And this was in the summer of 1892? A. I think so; yes, sir.

Q. What were the names of Col. Moyers' other clerks at the time you left him? A. Why one was Mr. John C. Scott and George F. Cahill.

Q. Is he living? A. I suppose he is. I have not seen him for eight or nine years.

Q. Anybody else? A. Tyler Page.

Q. Is he living? A. I could not state that. I have not seen him probably for six or seven years.

Q. Anybody else? A. I don't remember anybody else.

182 Q. Now, during what period of time was it that Col. Moyers paid these small sums of money to Mr. Edmonds. Between what years? A. Well, let me see now. As soon as Edmonds turned the cases over to him. That was probably along in 1888 to the best of my recollection.

Q. From that time on up to the time you left Col. Moyers you would frequently see Col. Moyers pay small sums to Mr. Edmonds? A. The Colonel would sometimes ask me to hand Mr. Edmonds \$25. or \$10. or whatever the amount was and I would go to the safe and get it and Mr. Moyers would be in his back room and I would take it in and lay it down on the desk and Mr. Edmonds would be in there.

Q. How frequently would that occur? A. Very often. I cannot state the number of times.

Q. Every week? A. Probably not so frequent.

Q. Every two weeks? A. Whenever he wanted some money.

Q. Did Col. Moyers to your knowledge keep any record of these payments that were made to Mr. Edmonds? A. I presume so.

Q. Do you know of your own knowledge whether he did? A. I do not know.

Q. Did you ever see a receipt pass between the parties? A. I retired from the room at the time and would go right back to my desk and he would usually roll the money and put it in his pocket.

183 Q. You said that Edmonds told you that he never had anything else to live upon at that time? A. He did.

Q. Do you know Mr. Edmonds' brother, James B. Edmonds, who was lately Commissioner in this District? A. I have — him certainly.

Q. Do you know whether he ever afforded George B. Edmonds any means of support? A. I could not say.

Q. Do you know Mr. Horace S. Cummings? A. I do not know.

Q. You don't know of course, whether he ever afforded Mr. Edmonds any means of support? A. No, sir.

Q. You say you knew something of this contract in 1888 between Col. Moyers and Mr. Edmonds? A. Yes, sir.

Q. Did you ever see it? A. I possibly have seen it. I saw pretty much all the contracts and fee arrangements that were in the safe.

Q. Do you know how many cases were in the schedule attached to that agreement? A. I could not say.

Q. How many would you say they were? A. I could not because there were several pages of them.

Mr. BIRNEY: Objected to for the reason that the question assumes that there was a schedule attached and the witness has not so testified.

Q. How many would you say there were? A. I could not make any definite statement as to that. I never counted the cases.

184 Q. State according to your best recollection. A. As to the number?

Q. Yes, sir. A. I could not.

Q. A great number or very few? A. It is difficult for me to say as to that.

Q. What is your best recollection about it, Mr. Healy? A. I know there was a list.

Q. You know there was a list.

Mr. BIRNEY: Let him go on with his answer fully.

A. I cannot answer fully as to the exact number of cases on that list. It has been sometime ago.

Q. Do you remember the names of any of the claimants? A. No, sir; if I saw the list probably I would remember them; yes, sir.

Q. Do you know, Mr. Healy, when the claims appropriated for by the act of 1891 were actually paid by the Treasury Department? A. Well, I do.

Q. When was it? A. Along in from March on up to say in the summer—sometime after that because I went through the Warrant division through the Treasury Department a great many times myself.

Q. I am speaking of the act of 1891. A. That is what I am talking about.

Q. Was not the payment for a good many of the claims delayed until 1892? A. There may have been some held up.

185 Q. Don't you know as a matter of fact there were a number held up? A. There were two or three large cases held up; yes, sir.

Q. Who had charge of the drafts issued by the Treasury Department in payment of these claims under the act of 1891—appropriated for under the act of 1891. By this I mean such drafts as Col. Moyers was interested in? A. Well, Mr. Moyers was here himself at the time.

Q. Who collected the drafts from the Treasury Department? A.

Well, sometimes I would go down and sign them—sign for a draft when I pulled it through and bring it to the office.

Q. You would have the drafts in your possession? A. Yes, sir; and hand them to him. That is to the best of my recollection, yes, sir.

Q. You recall no case or no claim paid under the act of 1891 in which Mr. George B. Edmonds was interested? A. I cannot recall a case.

Q. How much money did Col. Moyers usually keep in his safe? A. Well that is very hard matter to state. Sometimes three or four hundred dollars and sometimes there was not any.

Q. As a matter of fact was it not the invariable practice for the Treasury Department to sign the draft at that time, in 1891 and 1892, directly to the claimants and not to deliver them to the attorneys? A. Well, now, let me remember. I think there might possibly have been a clause in that act—that omnibus bill. I am not certain.

186 Q. What was the practice at that time? A. As to the attorney receiving the draft?

Q. Yes, sir. A. I don't remember distinctly.

Q. Then you are not altogether sure of your recollection that you collected some of the drafts for Col. Moyers at the Treasury Department? A. I would have to refresh my memory on that fact.

Q. You are not sure that you are correct in your testimony that Col. Moyers collected some of the drafts himself at the Treasury Department? A. Well, I am sure on that because on three or four large cases the claimants were right here—were present and he was with them.

Q. Wherever the claimant was a non resident do you know of any instance where Col. Moyers collected the draft at that time from the Treasury Department or you collected the draft from the Treasury Department for Col. Moyers? A. A number of cases were not probably under that act?

Q. Not under the act of 1891—the appropriation act of 1891? A. I have paid very little attention to these matters the last eight or ten years—the last seven or eight years.

Q. Who kept Col. Moyers' books during your connection with him—book of accounts? A. What accounts do you mean?

Q. Cash accounts. A. He kept it himself.

187 Q. But as a matter of fact to your knowledge who kept the books of account showing his receipts and disbursements? A. He kept a diary.

Q. Do you know whether he kept any books showing his collections and disbursements of money? A. I could not state.

Q. Do you know of any books except his diary? A. That is all.

Q. Now, I understand you to state that Mr. Edmonds came to Col. Moyers' office in 1888, according to your best recollection, and that he frequently referred to a printed list of disallowed claims which Col. Moyers had in his office? A. Yes, sir.

Q. That he had full and free access to this list of disallowed claims? A. He did.

Q. Do you know what use Mr. Edmonds made of his access to this list of disallowed claims? A. I do.

Q. What? A. Well, he would go through the list and when he took out a case, the report, was printed there and the disallowance and then he came to see me and asked me if I thought that was a good case, Well, from reading the report I would say this is good and answer in the affirmative and he would ask me then to make a request to have the case referred to the committee.

Q. Well, did he simply take out the claims in which he and Col. Moyers were interested and take that action then? A. The 188 cases in which he had no interest whatever as far as I could see.

Q. Do you mean to say he selected the claims in which Col. Moyers was interested and then took this action? A. He did not take any particular claim—only those in the book.

Q. This book consisted as I understood it of disallowed claims generally and not only of claims in which Col. Moyers was interested? A. Yes, sir.

Q. And Mr. Edmonds would look over this book and select such claims as he thought might be re-opened and perhaps take some action on behalf of the claimant or endeavor to form some connection with the claimant. Is that right? A. Well, he would ask me to make out a request and I would take it down to Congress with my other papers and see a member from the district where that case was rejected and have it referred to the committee.

Q. You were then in the employ of Col. Moyers? A. Yes, sir.

Q. And of course you would not do anything detrimental to Col. Moyers' interest? A. No, sir.

Q. And by acting thus for Mr. Edmonds you did not mean to act contrary to Mr. Moneys' interest in any way? A. No, sir.

Q. To your knowledge you never acted in this way for Mr. Edmonds in any claim in which Mr. Moyers' was interested? A. I think there was an agreement—possibly there might have been.

Q. Between Col. Moyers and Mr. Edmonds in respect to the prosecution of the claims?

189 Mr. BIRNEY: Objected to as being a statement of counsel and not a statement of the witness.

Mr. TUCKER: Counsel for complainant here states that the above is a question propounded to the witness and asks the examiner to repeat it with a rising inflection on the last word.

Hereupon the question was read over by the examiner.

Q. Answer that Mr. Healy. Just answer that. You said there was an agreement between Col. Moyers and Mr. Edmonds in respect to the prosecution of the claims? A. In that individual case?

Q. We are not speaking of an individual case are we. What I

want to get at is this, Mr. Healy. Did you ever act for Mr. Edmonds in any claim when by so doing you would act in a manner detrimental to Col. Moyers' interest to your knowledge? A. No, certainly not.

Q. Did Mr. Edmonds ever ask you to assist him in any way in any claim in which Col. Moyers was interested when by so doing Col. Moyers would have been effected injuriously? A. Well, I would say that—I cannot say that he did.

Q. Well, by saying that Mr. Edmonds had access to this printed list of disallowed claims do you mean in any way to imply that he in any way took hold or took charge of any claim in which Col. Moyers was interested so as to effect Col. Moyers' interest injuriously in respect to that claim? A. Well, now, he possibly may have.

190 Q. Can you name any instance in which he did that? A. No, sir.

Q. Why do you—that he may have done it? A. It is right to say what he may have done. I do not know.

Q. Have you any reason to believe that he ever did do anything of the sort? A. Well, I knew nothing of Mr. Edmonds outside the transaction previous to his coming to the office.

Q. Did Col. Moyers know at the time that you were doing this service for Mr. Edmonds? A. It was at his suggestion. He would say "Let Mr. Edmonds see the books." I got the books—I kept this list because I did not want to loose them. They were valuable we thought.

Q. It was Col. Moyers' suggestion that—would do this service for Mr. Edmonds? A. Sometimes.

Q. Was there any instance in which you acted in respect to any claim without the knowledge of Col. Moyers? A. Well, I cannot say.

Mr. BIRNEY: Counsel for the defendant gives notice that he will probably have to recall this witness for further examination.

THOMAS J. HEALY.

Subscribed and signed for the witness by me by consent and agreement of counsel this 10 day of March, 1900.

MASON N. RICHARDSON, *Examiner.*

191 V. B. EDWARDS, a witness of lawful age being first duly sworn for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your residence, your occupation and how long you have pursued your profession? A. Lawyer and have been practicing here about twenty-five years.

Q. Where has your practice as a lawyer been principally? A. In the courts here and before the departments.

Q. Before the Court of Claims? A. Yes, sir, in the Court of Claims.

Q. For how many years have you practiced before the Court of Claims? A. Twenty years probably.

Q. Are you familiar with the class of cases that have been before that court and have been before it for the past twenty years? A. I am.

Q. And with the practice of that court? A. Yes, sir.

Q. Are you familiar with the cases which were provided for by what is known as the Bowman act of 1883? A. I have had several of those cases for myself—tried them in the court.

Q. And you regard yourself as familiar with them? A. Well, I am pretty familiar with them?

Q. Will you please state what the character of those cases are in a general way—what was the history of the legislation regarding them?

192 Mr. TUCKER: That is objected to as irrelevant and incompetent and upon the ground that the matters referred to are not the subject of expert testimony or if they are subject to expert testimony that the witness has not properly qualified himself as an expert.

Q. Go on. A. Well, under the act of 1883 they provided for claims for stores—what we call stores and supplies and for rent—cases providing for the rent—where it was not at the seat of war.

Q. We- they all claim growing out of the war of 1861 and 1865?

It is hereby stipulated and agreed between counsel for the respective parties that the objection stated above shall apply to all questions of a similar character.

MASON N. RICHARDSON, *Examiner.*

—. The claims provided for under the act of 1883 were those growing out of the late war—1861-'65.

Q. What authority in a general way was given the Court of Claims under the act of 1883? A. That was given the Court of Claims to find the question of loyalty first and then the question of facts as to the taking of the property, title and the value of the property taken.

Q. What then was to be done by the court? A. Well, after the case was referred to the court by Congress a petition generally was filed, the evidence that had been taken before the Southern Claims

Commission if it was not sufficient additional testimony was 193 taken on the question of loyalty and briefs and argument had to be prepared both by claimant's attorney and defendant's attorney and submitted to the court and the question of loyalty first found. If that was found in the affirmative. In other words if any claimant was found loyal the evidence taken in addition to that which had been before the Southern Claims Commission, briefs

on both sides and either submitted by consent or submitted to the court and the findings of the fact by the court. If the court held the findings of fact as to the value then it was sent to Congress for appropriation.

Q. When was the first appropriation made for the payment of such claims? A. My remembrance that by the act of 1891 first—that is all those claims sent up by the Court of Claims.

Q. Do you recollect what appropriation, if any, contained a provision for the re-hearing on the application of the Attorney General? A. The act of 1891—well, now, I would not like to answer that question definitely without looking at that act. The custom now is under that act of 1883 after we get a findings of fact the Attorney General makes a new call around the department to see whether any new facts have turned up or not by which he can predicate either a motion for a new trial or make some objections to the certification and they don't certify the facts now until the Attorney General marks it O. K.

Q. How much time is given him for that, do you know? A. No, I don't. They have been three or four months over there considering to give an answer.

194 Q. You said that the first appropriation was made in 1891. When was the next one made? A. March 3rd, 1899.

Q. How long before 1891 were the findings of the Court of Claims in favor of the claimants first certified to the Congress? A. I do not know. It must have been four or five years; probably longer. I could refresh my memory by one I had sent up there I think it was either 1883 or 1884.

Q. And no appropriation was made until 1891? A. Not until 1891.

Q. What efforts, if any, of which you were aware, were made between 1891 and 1899 to secure appropriations for the payment of the findings of the Court of Claims in this class of cases? A. I think there was a bill there every Congress. If not in every Congress by individual bills, there would be a general bill including all those that had been certified up.

Q. Those bills failed until the act of 1899? A. The general bill. There might have been a few individual bills gotten through.

Q. Mr. Edwards, state, if you know, what the general estimate in the profession was of the value of these claims in view of this reluctant legislation in Congress? A. Well, I do not know that they had any general value to them.

Q. Well, how were they regarded, as good, bad or indifferent? A. Generally as indifferent.

195 Q. Why? A. It was impossible to tell what they were worth on account of the uncertainty of legislation and the uncertainty of what the findings would be as to loyalty and also as to the merits.

Q. Had those cases before the act of 1893 been rejected in any way? A. Well, that class of cases do you mean?

Q. Yes, sir. A. That class had been rejected by the Southern Claims Commission. It was those that were rejected which were certified to the court.

Q. Do you remember when the Southern Claims Commission closed its labors? A. I don't remember now. I think it was created in 1871. I am sure about that. That is my impression that it was 1871. I am sure about that.

Q. Do you know when its duties closed? When it closed its duties? A. I don't remember the exact date, but it was seven or eight years—it may have been nine or ten years.

Q. It closed somewhere about 1878 or 1879? A. It must have been somewhere near that.

Cross-examination.

By Mr. TUCKER:

Q. You are engaged with Mr. Birney, I believe, in defending Col. Moyers in this suit? A. Yes, sir.

Q. You were the original attorney for Col. Moyers in this suit?

A. Original attorney?

196 A. Yes, sir. Q. No, sir, I think Mr. Birney was in—

Q. You and Mr. Birney both came in the case together as Col. Moyers' attorneys? A. Yes, sir.

Q. How long have you known Col. Moyers? A. I think about twenty years or over.

Q. What has been his business since 1883? A. Well, his business has been generally prosecuting what we call these Southern claims, stores and supplies in the Court of Claims.

Q. Is it the same class of claims which you think have had no value?

Mr. BIRNEY: That is objected to as a statement of counsel and not warranted by the evidence. The question assuming that this witness has said that the claims were without value.

A. I intended to say that it was hard to estimate what the value was at that time taking them before anything was done with the claims.

Q. Were there not various special acts prior to the general act of 1891 appropriating for the payment of claims of this character? A. There was one what we called Southern Claims Commission. There were claims—they generally appropriated regularly, I believe, each year for this class of claims where they had been reported to Congress as right by the Southern Claims Commission.

Q. Then in 1891, an act was—the omnibus act was passed 197 appropriating for claims of this character. Is that right? A. I believe it is.

Q. Between 1891 and 1899 were there not various special acts appropriating for claims of this character? A. There might have been. I don't remember of very many, if any.

Q. Were you in any way connected with Col. Moyers in 1891?
A. You mean in business?

Q. Yes, sir. A. No, sir.

Q. Do you know the extent of his business at that time? A. No, sir; I do not.

Q. Have you any idea of what fees he derived from claims appropriated for by the act of 1891? A. No, sir.

Q. Do you know whether he had a large number of claims—do you know whether he was interested in a large number of claims appropriated for by the act of 1891 or small number? A. No, sir, I do not know because under the act of 1891 I did not have any claims in' that myself and I did not, of my personal knowledge, know of any one that did.

Re-direct-examination.

By Mr. BIRNEY:

Q. Has Col. Moyers' business been confined entirely to these Southern Claims Commission cases? A. So far as my knowledge goes it has.

Q. Do you know of his having prosecuted cases under the act of July 4th, 1864? A. I know several years ago that he had claims under that act and had collected the money under that act—
198 that was for the payment of loyal claimants in loyal States.

Q. He conducted a large business under that act did he not?

Mr. TUCKER: Objected to as leading.

A. Now, I will only have to answer that as hearsay.

Q. Was it by hearsay or general understanding that you answered Mr. Tucker's question as to Col. Moyers' business? A. Well, that was under that act of 1864—I knew personally that he had under that act of 1864—he did have some claims under that act.

Q. Under the act of 1864 cases were referred to the Court of Claims were they not?

Mr. TUCKER: Objected to as leading.

Q. The cases disallowed I mean. Or do you recollect? A. I do not recall any provision for a claimant under the act of 1864—for the Court of Claims unless the court would have jurisdiction without reference—that is, the claim occurred in those loyal States and the statute of limitations had not run against them then the court could take jurisdiction of them.

V. B. EDWARDS.

Subscribed and signed for the witness by me by consent and agreement of counsel this 12 day of March, 1900.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned until Tuesday March 13th, 1900, at 11 o'clock.

MASON N. RICHARDSON, *Examiner.*

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WASHINGTON, D. C., *March 13, 1900.—11 o'clock a. m.*

Met pursuant to adjournment in the law offices of Messrs. Birney & Woodward, Mertz building, to take further testimony for and on behalf of the defendant.

Present: C. C. Tucker, Esq., for the complainant; A. A. Birney, Esq., for the defendant; parties, examiner and witnesses.

Whereupon THOMAS J. HEALY, a witness heretofore sworn for and on behalf of the defendant, being recalled for further direction testimony, testified as follows:

By Mr. BIRNEY:

Q. On cross examination yesterday, Mr. Healy, you were asked by Mr. Tucker concerning some list of cases and the number of cases in that list. To what list did you refer? A. I had reference to a printed list by the Commissioner of Claims containing all the disallowed cases before that committee.

Q. Did you mean to be understood as saying that that list or any list was attached to the contract which you mentioned as having seen in Col. Moyers' safe?

Mr. TUCKER: Objected to as leading and suggestive.

A. No, sir; of course not.

Q. I show you now a book entitled "Consolidated Index of Claims Reported to the House of Representatives, 1871–1880" and containing a great list of claims and ask you if that is the book to which you referred. Is that is the list you referred to in your testimony?

Mr. TUCKER: Same objection.

A. That is the list I referred to as the printed list of claims.

Q. You have testified to certain payments of money made by Col. Moyers to Mr. Edmonds from time to time. Did you ever make any such payments yourself? A. Well, I made some small payments to him.

Mr. TUCKER: The same objection and also as it is not proper redirect examination.

Mr. BIRNEY: That is admitted. I told you I was going to recall him.

Q. How many of such payments did you make? A. That I could not say definitely how many it was—at different times.

Mr. TUCKER: Same objection.

Q. Under what circumstances did you make the payments—how was it you made the payments instead of Col. Moyers?

Mr. TUCKER: Same objection.

A. When Mr. Moyers was away Mr. Edmonds would come to me, as I had the funds in the office there, and I would let him have \$20 or \$10, and sometimes Mr. Moyers would write to me to let Mr. Edmonds have \$20, and I would just take his receipt and send it back.

Q. Who acted as paymaster in the office when Col. Moyers was absent? A. I did in a manner.

Mr. TUCKER: Same objection.

201 Cross-examination.

By Mr. TUCKER:

Q. Mr. Healy, why did you let Mr. Edmonds have this money? A. Because Mr. Moyers said in his letters when he was away, knowing his circumstances to let him have it.

Q. Out of charity? A. Well, I presume so—whether it was on his business matters—it was on his business matters—that is as definite as I can make it.

Q. In other words, you do not know whether these payments were made out of charity or whether they were payments made by Col. Moyers in settlement of the accounts between them or not? A. Well, they had no settlement of accounts between them because there was no case in which Mr. Edmonds had ever been interested that had been settled up to that time.

Q. Then they were gifts to Mr. Edmonds by Col. Moyers for charity-sake?

Mr. BIRNEY: That is objected to as not having been stated by the witness and as an assumption on the part of the counsel.

A. I cannot say that.

Q. Well, then why were they made. Q. Because Mr. Edmonds had no other way of getting more money as far as I could see and was probably depending on that.

THOMAS J. HEALY.

Subscribed and signed for the witness by me by consent and agreement of counsel this 13 day of March, 1900.

MASON N. RICHARDSON, *Examiner.*

202 P. E. DYE, a witness of lawful age being by me first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your age, your profession and your residence, Mr. Dye? A. 69 years old, lawyer by profession and my place of business—my office is 514—11th street, northwest, Washington, D. C.

Q. To what extent in the practice of your profession have you practiced in the Court of Claims? A. Well, I have practiced in the Court of Claims since 1870 and my principal business has been practicing before that court in claims.

Q. Are you familiar with the class of cases which under the so-called Bowman act of 1883, went to the Court of Claims? A. Well, I think I am. I have had many of those cases and prosecuted them there.

Q. Can you give, Mr. Dye, a precise statement of the history of those cases?

Mr. TUCKER: Objected to as irrelevant to the issues in this case and as incompetent and immaterial.

It is stipulated and agreed between counsel that said objection is to apply to all similar questions asked this witness.

MASON N. RICHARDSON, *Examiner.*

Mr. TUCKER: And also if the witness is asked to express any expert opinion upon the value of the so-called Bowman act
203 such questions are objected to as the matter is not the subject of expert testimony.

Q. Now, go ahead. A. The Bowman Act cases as I understand them were war claims that accrued during the war and for a long time they were prosecuted—that is where they arose in States not in rebellion—they were prosecuted under the act known as the "Fourth of July act" and prosecuted before the Quartermaster General and the Commissary General. Subsequently Congress passed an act known as the Bowman act March 3, 1883, which embraced claims of a similar character from States that had been in rebellion and an act was passed prior to that time in March 3, 1871, by Congress forming what was known as the Claims Commission.

Q. The Southern Claims Commission? A. They dubbed this the Southern Claims Commission when they organized in Washington—it was only known by the name they gave it I suppose themselves. It was not so in the law. It was known as the Claims Commission. They took up claims—this class of war claims—where they had occurred in States in rebellion and caused testimony to be taken and tried the cases and allowed some and rejected others. The proportion of claims that were allowed were very small compared with the number of claims that were filed. The act I spoke of immediately

before, that is the Bowman act of March 3, 1883, was passed with a view to have the cases, that gave an opportunity for cases that had been rejected by that commission to be tried under that act—under the act of March 3, 1883, in the Court of Claims. Under the act it was necessary that the case should have been sometime filed before some department of the Government or they would not act
204 under that act. Subsequently in 1887, the 3rd of March, the act was passed commonly known as the "Tucker act" now, which provided that when a bill was pending in either House of Congress the bill might be referred to the Court of Claims and all the papers in the case to find the facts for the information of Congress.

Q. When was the first appropriation made for the payment of amounts found to be due by the Court of Claims under the Bowman act? A. I believe in 1891, that is my recollection.

Q. When was the next appropriation made? A. The last Congress, I believe. I do not know as I know the exact date, but I think about the 3rd of March.

Q. 1899? A. Yes, sir, 1899.

Q. Can you approximate from your knowledge of the cases the proportion of these claims which under the Bowman act were allowed by the Court of Claims in whole or in part? A. That question has been found by some—well, it seems to me the Attorney General made a report on that question. I have seen it somewhere and it was in some report before Congress, but I cannot now name it exactly. I think that only about one in twelve, and as to the amount allowed on the claim out of this one in twelve my experience has been, and I presume my cases have been as good as any others—I have always refused to take cases unless I had a opportunity to look into them and determine whether I thought I could make the cases. Indeed, I would not take a small case now of that class. It would not pay one. It would not pay you one's salt so to speak.

205 Q. What was the proportion of the amount of the claims?

A. The amount allowed I judge is about fifty per cent. In all the cases I have prosecuted before the Court of Claims and I have taken great pains and care in prosecuting those cases. I don't remember of having but two cases that were allowed the amount I claimed—the full amount of the cases.

Q. Do you know the percentage of amounts allowed the claimants rejected and allowed by the Court of Claims. That is to say, the whole amount claimed in all the cases, what was the percentage or proportion of the amount actually allowed? A. Well, from my information and observation I should say less than fifty per cent.

Q. Have you seen upon that subject any official report from the clerk of the Court of Claims? A. I have seen a report, but I was under the impression it was issued or gotten up by the Assistant Attorney General aided by the clerks in the Court of Claims. I saw them at one time working and I was told that they were talking

up all the claims—that they had been running over them and taking the amount with a view to preparing an estimate of the kind you suggested.

Q. Now, Mr. Dye, can you state the estimate placed upon the value of the claims of this kind, prior to the appropriation of 1891 and subsequent to the appropriation of 1891 and prior to the appropriation of 1899?

Mr. TUCKER: Objected to as calling for purely hearsay testimony and as irrelevant.

206 Q. I mean the general estimate in the profession—among those practitioners practicing before the Court of Claims?

A. If I speak from my own experience in cases that I practiced myself—that I prosecuted myself and from the information I have obtained from other attorneys with whom I have talked—

Q. I will ask you to speak from your own experience and state what is your estimate from your experience of the value of those claims at the times I have mentioned?

Mr. TUCKER: Objected to as irrelevant and immaterial and calling for testimony upon matters which are not the proper subject for expert testimony.

A. Personally I regarded the cases that had been tried by the Claims Commission—the Southern Claims Commission, if you want to so designate it—I regarded those cases of very doubtful value. many

There were some contingencies which beset them, having been tried by that commission and rejected, the testimony having been taken and the claims rejected unless a man had information as to whether he could prove the case he could not afford to put money upon them or time. Sometimes the claimant would suggest that he could prove a state of facts naming them, but there is no certainty about that. I regarded those claims of small value.

Q. Do you know if that was the general estimate in the profession?

Mr. TUCKER: Objected to as calling for purely hearsay testimony and as irrelevant, incompetent and immaterial.

A. That was the general expression of attorneys with whom I have conversed on that subject; they regarded them of very doubtful or of little value. Of course, claims depend upon the 207 testimony.

Q. And these claims depended upon the contingent action of Congress did they not?

Mr. TUCKER: Objected to as leading and suggestive.

A. Yes, sir, and also depended upon the fact whether the man could prove his loyalty.

Cross-examination.

By Mr. TUCKER:

Q. Col. Dye, you have stated that you valued the claims that had been rejected by the Southern Claims Commission—that you considered the claims rejected by the Southern Claims Commission as of very doubtful value. As I understood it the claims appropriated for by the act of 1891 were the claims that had been rejected by the Southern Claims Commission. Is that correct? A. Possibly some of them were, but not all.

Q. Was not the large majority of the claims appropriated for by the act of 1891 claims which had been rejected by the Southern Claims Commission? A. Well, I could not tell what proportion just at this moment, but cases that had been—all the cases that were appropriated for by that act had been filed sometime before the departments of the Government. As I remarked in the direct testimony under the Bowman act no claims unless it had been before the Southern Claims Commission or some of the departments had any standing before the Court of Claims under the Bowman act.

Q. Well, it is not true that the majority of claims appropriated for by the act of 1891 were claims which theretofore had been 208 rejected either by the Southern Claims Commission or by some other tribunal? A. Yes, sir; that is true.

Q. Now, the act of 1891 was the first general appropriation act that had been passed for the payment of such claims as were right, that is payment of rejected claims. A. Well, I think it was.

Q. As a result of the passage of the act of 1891 did not claims of this character obtain a greater value than before the passage of that act? A. They may have had a better standing.

Q. Better standing? A. Well, I should say they would have a better standing by the passage of the act.

Q. Was not the passage of the act of 1891 considered in the profession as a recognition by Congress that claims of the character appropriated for by the act of 1891 were claims which should receive consideration from Congress? A. Well, I should answer that in this way. I think the passage of that act was a recognition of the Court of Claims—the findings of the Court of Claims upon these cases.

Q. Well, now, in your judgment as a practitioner before the Court of Claims and as one handling these class of claims do you not think that after the passage of the act of 1891 claims of this character had a much greater value than before the passage of the act of 1891. A. Well I think these claims did not take on a certain value until after the passage of the last act of 1899, March 3rd, 1899.

Q. Well, if you pardon me, but that is not a response to the question that was propounded. Read the question to the witness, Mr. Examiner.

Hereupon the question was read over to the witness.

A. Well, I will answer that question. I cannot say that they had a much greater value, though probably of more value, than before the passage of that act. I cannot say it was of much greater value, I did not consider them at this time of very great value.

Q. As a practitioner before the Court of Claims and as one interested in this character of claims would you have been more willing to take claims of this character for prosecution after the act of 1891 than before the passage of that act? A. Well, I would if my contingent fee would be what I wished. If my fee had been fifty per cent. of the amount I could collect, I would have been willing to take them.

Q. I do not understand at any time, either before or since the passage of the act of 1891, or since the passage of the act of 1899, claims of this character have any market value? A. You are referring to that—I do not think a man could sell his case for five cents on the dollar, he could not sell it—no one that I know of would advance a cent even on the findings—after the findings were made by the court.

Q. Those claims resemble all other law suits, do they not, in that they depend largely upon the character of the testimony and to vigor with which they are prosecuted by the attorneys in 210 them? A. Of course, they depend upon whether the testimony proves the cases—establishes it and establishes the loyalty of the claimant. That has to be shown that he was loyal to the Government of the United States throughout the war, not part of the time, but absolutely prove it to the satisfaction of the court.

Q. You stated that you have spoken to various attorneys with respect to the value of claims of this character. Who are some of the attorneys you have talked with? A. This was in conversation about claims. We did not designate any particular claims, but the class of claims generally.

Q. Who was some of those attorneys? A. Reese B. Edmondston, Gleen W. Cooper, McPherson, John Paul Jones, and John C. Chaney.

Q. Col. Gilbert Moyers? A. Yes, sir, I have talked with him about it. We have talked together about it. Well, with others, I presume with most of the attorneys who practice before that court.

P. E. DYE.

Subscribed and signed for the witness by me by consent and agreement of counsel this 13 day of March 1900.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this case was adjourned until Friday, March 16th, 1900, at the hour of 2 o'clock p. m.

MASON N. RICHARDSON, *Examiner.*

211 WASHINGTON, D. C., *March 17th, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Birney and Woodward, Mertz building, to take further testimony for and on behalf of the defendant.

Present: C. C. Tucker, Esq., for the complainant; A. A. Birney, Esq., for the defendant; examiner and witnesses.

Whereupon CYRUS SNYDER, a witness of lawful age being first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your residence, and occupation, Mr. Snyder? A. Washington, occupation, lawyer.

Q. How long have you practiced your profession? A. Since 1858.

Q. In 1892 had you any professional association with the defendant, Gilbert Moyers? A. Yes, sir.

Q. What was it, in a general way? A. I represented and had powers of attorney and contracts with various claimants under the Bowman act—war claims I had associated Col. Moyers with me in many of them; that is, before the Court of Claims.

Q. Did you know George B. Edmonds? A. Yes, sir.

Q. Where did you meet him—how did your acquaintance 212 with him arise? A. I met him here in this city of Washington. My acquaintance was formed by reason of his frequent visits to Col. Moyers' office.

Q. Were you frequently at Col. Moyers' office? A. Yes, sir. I staid there a large part of my time. It was the only office I had there.

Q. Did you have a conversation with George B. Edmonds in the summer of 1892? A. I did; yes, sir.

Q. Can you fix about the time when it occurred? A. Well, I had a good many conversations with him.

Q. Did you have a conversation with him concerning in any way the business he had with Col. Moyers?

Mr. TUCKER: Objected to as leading.

A. I did, yes sir.

Q. Can you fix the date of that conversation? A. Well, I was in the later part of June or the first part of July, 1892.

Q. Where did it occur? A. It occurred on the street as well as I remember.

Q. Please state what it was? A. I applied to Mr. Edmonds for a little loan. I was impecunious myself and I wanted a little money. I had seen him have money and I knew that he had some interest with Col. Moyers and I told him of my interests and I applied to him for a loan of \$50.00 and he said he did not have any money.

then, but was expecting to sell out his interest to Col. Moyers and if he closed that out that he would probably be able to accommodate me.

213 Mr. TUCKER: The latter part of the witness's answer is objected to and at the hearing will move to strike out such parts of his answer as states what Edmonds said to him—what he was in expectation of doing or receiving, on the ground that it is irrelevant, immaterial and incompetent.

Cross-examination.

By Mr. TUCKER:

Q. How long have you known Col. Moyers? A. I have known Col. Moyers since about 1875.

Q. How intimate have you been with him since then? A. Well, we have had business connection more or less.

Q. How intimate—you met him in his office? A. I cannot say how intimate. I made my business headquarters there on my own account.

Q. You stated that Moyers' office was your headquarters? A. Yes, sir.

Q. And that you had no other office? A. Yes, sir.

Q. Where was that office? A. That was 1305 E street, at that time, northwest.

Q. Did Col. Moyers' office remain at that place during your connection with him? A. No sir, no, sir. I have been connected in cases with him from that time to the present.

Q. Where has he had offices since his office was at 1305 E street? A. He moved from there to the Washington Loan and Trust building from there to 1420 New York avenue and from there to 720 17th street.

214 Q. When did he move from 1305 E street to the Washington Loan and Trust building? A. Now, sir, I cannot tell you that, but I think it was sometime between September 1892 and January 1893. I was not here when he moved.

Q. Where was Col. Moyers' office at the time you had this conversation with Mr. Edmonds that you speak of? A. 1305 E street.

Q. You are certain of this? A. I am quite sure, yes, sir.

Q. Whereabouts on the street did you meet Mr. Edmonds and have this conversation with him? A. Well, now, I could not fix any exact locality.

Q. What fixes the conversation in your memory? A. Why because I had to get money elsewhere.

Q. Do you remember having a conversation with Mr. Edmonds and do not recall where the conversation was had? A. I do not recall exactly the locality, but it was in the neighborhood of that office.

Q. In the neighborhood of 1305 E street? A. Yes sir, on the street as well as I remember.

Q. How do you fix the time to be the latter part of June or the early part of July, 1892? A. Because I was very anxious to get away on a contemplated trip South, and I did not get away until the first of September or the last of August—the last days of August—the 29th I believe it was. I was more or less anxious about it and expected that I could probably get some money from Mr. Edmonds.

215 Q. Had you ever borrowed money from Mr. Edmonds before? A. No sir, I never did.

Q. For what reason did you expect that he would be able to lend you money? A. Because I had seen him have money from time to time and I knew in a general way of his interests with Col. Moyers.

Q. What do you know about his interests with Col. Moyers? A. I only knew by some of Col. Moyers' books that I have heard Col. Moyers say and Mr. Edmonds say that he had interests there.

Q. Why at that particular time did you think that Mr. Edmonds would have money or receive money from Col. Moyers? A. I do not know. I did not think—I do not know anything about it. I saw that he had money and I knew that he had some interest, and that he had probably received it from that source or on that account.

Q. You did not know the exact nature of that interest? A. No, sir, except I understood it was this class of Bowman Act claims.

Q. That were provided for by the act of 1891? A. No sir, I did not know anything about that. I knew that he had some interest with Col. Moyers, but the particular cases I did not know anything about.

Q. You knew that he had certain of the Bowman Act cases appropriated for by the act of 1891? A. No, sir.

216 Q. And had you reason to believe that the claims in which Mr. Edmonds was interested were paid under that appropriation act? A. I had no reason to believe it because I did not know anything about it. I did not know that he had anything in that bill or not.

Q. You knew, did you not, that Mr. Edmonds would not receive money on account of claims in which he was interested with Col. Moyers until those claims were appropriated for, did you not? A. Well, no, I assumed, of course, that Mr. Edmonds would get no money on that account until an appropriation was made in the particular cases.

Q. And when you applied to him for a loan it, was in the belief that he had money due him on account of those cases in which he was interested with Col. Moyers, did you not.

Mr. BIRNEY: Objected to on the ground that there was nothing in the testimony of the witness to warrant such an assumption, the witness not having said so.

Q. Now, answer the question please, if you understand it. A. It was upon that theory that I approached him.

Mr. BIRNEY: Read the question, Mr. Examiner.

Hereupon the question was read over to the witness.

Mr. BIRNEY: Now answer it.

Mr. TUCKER: Let the examiner read the question and answer to it so that the witness can add to or subtract from his answer if he wants to.

217 Hereupon the question and answer were read over to the witness.

Q. State, if you please, Mr. Snyder, exactly what Mr. Edmonds stated to you? A. Well, when I asked him for the loan he said that he had no money, but that he was expecting to sell out his interest to Col. Moyers, and if he closed it he could then probably accommodate me. That was the substance, if not the exact words.

Q. Did he state how much he would get from Col. Moyers? A. No sir, no sir.

Q. Did you see Mr. Edmonds after that time? A. I reckon I did. As far as I remember I reckon I did I cannot say positively.

Q. Did he lend you the money? A. No, sir.

Q. Did you ask him for it? A. No, sir, not afterwards.

Q. Why? A. Because I made arrangements with other parties.

Q. How long after this conversation did you see Mr. Edmonds again? A. Well, I could not say that. I do not know.

Q. Did he tell you that he had sold out to Col. Moyers? A. No, sir.

Q. What sort of a looking man was Edmonds? A. Well, he was—it might be classed as a short thick man—broad face—square jaw. I don't remember his color.

218 Q. Did he have a beard? A. I don't remember that.

Q. Was his face smooth? A. It has been a good while ago and I don't know.

Q. Did he have a mustache? A. I could not tell you that with certainty.

Q. Do you remember the color of his hair? A. His hair was dark.

Q. No gray in it? A. I don't know. I don't remember.

Q. How old a man was he apparently? A. At that time, sir, my estimate would be that he was somewhere between 45 and 50. I would say.

Q. At the time that you had this conversation with him in the latter part of June or the early part of July what appeared to be his condition mentally, alert or otherwise? A. I thought it was normal.

Q. Did you see any evidence that he was mentally incompetent? A. No, sir, I did not.

Q. Did you at any time during that acquaintance with Mr. Edmonds observe anything that would indicate that he was mentally incompetent? A. No sir, I did not.

Q. Did he carry on a conversation connectedly—intelligently? A. Why, so far as I remember. At least nothing ever impressed my mind as being abnormal or irregular.

Q. Where did Mr. Edmonds live in the summer of 1892? A. I could not tell you, sir. I never did know.

219 Q. Had you ever borrowed money from him. A. No, sir.

Q. When did you first learn of the pendency of this suit? A. Why, I could not tell. Within a month or so.

Q. From whom? A. Well, now, I could hardly say that. I could hardly tell that.

Q. Have you had any talk with Col. Moyers respecting it? A. Yes, sir.

Q. Have you been promised any compensation for your testimony? A. No, sir.

Q. Has any intimation been held out to you by Col. Moyers or by any one acting for him that you would be compensated for your testimony? A. No, sir, nothing of the sort, sir.

Q. Did you ever see Col. Moyers pay Mr. Edmonds any money? A. I never did.

Q. After this conversation in the latter part of June or the early part of July, 1892—in your conversation with Mr. Edmonds was any mention ever made of any sale having occurred of his interest to Col. Moyers? A. No, sir.

Q. How many talks did you have with him after this interview of June or July, 1892? A. Well, I don't know how frequently. I may have met him and had a casual conversation, but never had any other conversation than the one I have spoken of in regard to any business matter.

220 Q. Where did you meet him after that time? A. Well, I could not tell you. I do not know. I do not know.

Q. Did you meet him in the office? A. In what office?

Q. Col. Moyers' office? A. I met him often in the office. I met him in the office there. In Col. Moyers' office. He came there very frequently.

Q. After this talk? A. Well, I do not remember. He might have been there afterwards and I may have seen him there. I could not say.

Q. When did you last see Mr. Edmonds? A. I could not tell that.

Q. How many years ago? A. Well, I have not seen Mr. Edmonds to my recollection for the space of five or six years and possibly longer.

Q. Can you recall the last time you did see him and where it was? A. No, sir, I cannot. I do not know. I was not intimate with him. My acquaintance was incidental.

Q. Did you see him six years ago? A. I could not undertake to say, sir.

Q. Did you see him seven years ago? A. Well, it would be a mere guess, I do not know.

Q. Did you see him eight years ago? A. I could not tell when, sir.

221 Re-direct examination.

By Mr. BIRNEY:

Q. Did you know anything more about his business relations with Col. Moyers than you have stated? A. No sir, I know nothing about it.

By Mr. TUCKER:

Q. Where is your office at present? A. I have two offices at present. My individual office is at 917 G street. I do a good deal of my work at Col. Moyers' office.

CYRUS SNYDER.

Subscribed and sworn to before me this 17 day of March, 1900.

MASON N. RICHARDSON, *Examiner.*

JOHN C. CHANEY, a witness of lawful age, being first duly sworn according to law and on behalf of the defendant, testified as follows,

By Mr. BIRNEY:

Q. Mr. Chaney, please state your place of residence and your profession and how long you have practiced? A. I reside at 1420 15th street, northwest, in this city and my office is 1320 F street, northwest.

Q. Your profession? A. My profession is lawyer. I have been practicing my profession since the 4th day of July, 1883.

222 Q. Have you held any official position under the Government, and if so, what? A. I was one of the Attorney General's assistants under the Harrison administration.

Q. What was the particular line of your duties in that office? A. The defence of suits in the Court of Claims and in the Supreme Court of the United States.

Q. And in the discharge of those duties did you become familiar with a class of cases provided for by what is known as the Bowman act of 1883? A. Yes, sir, I defended in behalf of the Government a number of those cases?

Q. Will you kindly state briefly the early history of those cases?

Mr. TUCKER: Objected to as irrelevant to the issues in this cause and as incompetent and immaterial.

Q. Go on. A. These cases, so far as the Court of Claims was concerned, were cases which had been rejected by the Southern Claims Commission, which had been established in 1871, and continued up to 1879, and were referred to the Court of Claims for a finding of

facts under what is known as the Bowman act, approved March 3, 1883. This act allows the claimants to file an application before either House of Congress in the shape of a petition and those petitions are then referred by a committee of the Senate or the House to the Court of Claims for judicial investigation and they proceed in the Court of Claims as an ordinary case of account or debt claim against the Government as against an individual, except that the court does not pronounce judgment, but makes findings.

223 Q. And those findings are then reported to Congress? A.

Yes, sir, those findings are then reported to Congress and appropriation made by Congress to pay the amount that the court finds due the respective claimants.

Q. How many appropriation acts have been passed to pay such findings? A. There have been two appropriations made to pay findings of the Court of Claims in this class of cases. One in 1891 and the other at the close of the last Congress.

Q. Have you ever investigated to determine what percentage or proportion of claims of this kind—those referred to the Court of Claims were allowed by that court, and if so, what did you find to be the number?

Mr. TUCKER: Objected to as irrelevant to the issues in this case and as incompetent and immaterial and on the further ground that the best evidence would be the records—the official records of the Court of Claims or of the Treasury Department.

A. I have investigated the percentage of cases in which findings are rendered in that court in favor of the claimants and from the investigation I made it ranges about seven per cent. of the cases filed.

Q. That is seven per cent. of all filed are allowed? A. Yes, sir, seven per cent. of all cases are allowed. That is, in some amount. It does not follow that they find the amount that the claimant asks.

Q. Please state what you have ascertained to be the proportion of allowance made to the amount claimed in the seven per cent. of cases which are thus allowed?

224 Mr. TUCKER: Same objection.

A. The allowance made ranges from five or six per cent. of the amount claimed to as much as one-third of the amount claimed. I have no recollection or knowledge of any allowance going above one-third. If I may be permitted, the court apparently regards these cases as stuffed demands and although some of them may not be, having learned that a great many of them are it seems to take the view that all of them are greatly exaggerated in amount.

Q. Now, Mr. Chaney, can you state what was the general value of these claims as a class as estimated by the practitioners before the Court of Claims prior to the appropriation act of 1899?

Mr. TUCKER: That is objected to.

Q. (Continuing:) And if so, give your conclusion?

Mr. TUCKER (continuing objection): That is objected to upon the ground that the question is uncertain in meaning; that its subject matter is not a proper subject for expert testimony and that if it is the proper subject for expert testimony the witness has not qualified himself to testify concerning the value of such claims, if any value could be properly placed upon them and upon the further ground that the question is irrelevant. The question calls for testimony not relevant to the issues in this case and for incompetent and immaterial testimony.

A. The value of these claims as a class is of such uncertain determination that no practitioner in that class of cases feels that there is anything sure about them until the amounts are actually established and appropriation made.

225 Q. For how many years were you engaged in the defence of this class of cases and others for the Government? A. Four years and small fraction of a month.

Cross-examination.

By Mr. TUCKER:

Q. Mr. Chaney, was the act of 1891, the first general appropriation act appropriating for the payment of these Bowman Act claims? A. After the Court of Claims had gotten jurisdiction it was.

Q. Were there any special acts passed prior to the act of 1891 for the payment of the findings of claims in such cases? A. Congress had made an appropriation to pay the findings of the Southern Claims Commission.

Q. But these claims appropriated for by the act of 1891, were claims which had been rejected by the Southern Claims Commission? A. Yes, sir.

Q. Had there been any appropriation prior to the act of 1891, for the payment of individual claims rejected by the Southern Claims Commission? A. Not that I remember of. There might have been and it escaped my attention.

Q. Did not the practitioners in this class of claims regard the act of 1891 as a recognition by Congress of the justice of these 226 claims—of this character of claims to a certain extent? A.

Yes, sir, I think it recognized the justice of those claims, but not so far as to recognize the justice of the claims without further investigation by the Attorney General. In that appropriation act the Attorney General's office was required to re-investigate each and every allowance that had been made and was given some months' time in which to file motions for new trial if upon examination it appeared that a thorough investigation had not been made.

Q. So that in a great many claims appropriated for by the act of

1891, for the reason that you have stated, drafts were not issued for many months after the date of the act. Was that true? A. Yes, sir, several months elapsed. In fact until the Attorney General certified that he had no motion for new trial to make in a case there were no drafts issued.

Q. Some of the claims were not paid until 1892. Is that not so? A. I think some of them have been even later than that.

Q. Now, in your judgment and in the judgment of the practitioners of this particular class of claims, so far as you are advised, were not claims of this character considered more valuable after the recognition they received by the act of 1891 than before that act? A. Well, as to that I cannot give a definite answer, for there was a great deal of speculation about it, but it would be my judgment that it did have a good deal of influence upon the belief of the lawyers in being able to obtain money for their clients in those cases.

Q. Since 1891, have not the members of the profession en-
227 gaged in the prosecution of this class of claims been in yearly expectation of the passage of acts to pay these claims? A. Well, if not in yearly expectation, they were in yearly hopes of it. If was deferred so long that they almost lost hope.

Q. In 1892 the hopes of the professional I presume were higher than they were in 1895? A. Yes, sir, there is no doubt about that.

Q. I do not understand you to intimate, Mr. Chaney, that claims of this character have an actual market value? A. No, sir, you could not borrow money on the prospects of such matters.

Q. And that if any value can be placed on a claim of this character it would depend largely upon the testimony that the claimant had in support of his claim like any other law suit? A. Yes, sir. He has got to prove his case.

Q. And one claim might, in not having testimony to support it, be absolutely valueless, while another claim having testimony to support it might have some greater value? A. Yes, sir, that is certainly so, sir.

Q. You have been the attorney for Col. Moyers, who is the defendant in this suit? A. No, sir; not in this suit.

Q. But you have been the attorney for Col. Moyers, who is the defendant in this suit? A. Yes, sir, I have been and am now his attorney in several matters.

Q. You also acted as his attorney in this controversy be-
228 tween Mr. Cummings and Mr. Moyers before the suit was actually instituted? A. Yes, sir, up to the time I went out to the Pacific slope to take some testimony in some cases of my own.

Q. I show you Complainant's Exhibit No. 4 attached to the bill of complaint in this case, which purports to be a letter signed by you and addressed to Mr. John W. Butterfield and dated September 1, 1899, and ask you whether you wrote that letter?

(Handing witness bill of complaint with letter attached.)

A. Yes, sir, I wrote this letter.

Q. In that letter you stated: "I have no doubt that the matters can be satisfactorily adjusted and amicably done, but he (Col. Moyers) says that he is absolutely unable to gather together his data this week owing to engagements which now occupy his time." Please state what information you had at the time of the writing of this letter which lead you to the belief that this matter could be satisfactorily adjusted?

Mr. BIRNEY: That is objected to if by it it is intended to call forth communications between attorney and client.

A. I had no information of the merits of the controversy between the gentlemen at all, since I had not seen any of the papers and had no explanation of the controversy, from Col. Moyers, but I expressed my belief of being able to adjust the matter satisfactorily on the theory that there was merit in the controversy between them and that certainly we could bring the matter out satisfactorily.

229 Q. At the date of writing this letter, September 11, 1899, how long had you been acting in the matter for Col. Moyers?

A. Well, of that I am not absolutely certain, but it must have been something like two or three weeks. I know that we were all occupied about the collection of drafts and rushed to death about it and certainly it extended over a period of something like that.

Q. You had repeated conversations, had you not, with Col. Moyers with respect to this claim of Mr. Cummings, as administrator of George H. Edmonds? A. No, I only had a very brief conversation twice perhaps, and it amounted to nothing more than that he would look up his papers and gather together his data relating to the question between them and we would talk it over.

JOHN C. CHANEY.

Subscribed and sworn to before me this 17- day of March, 1900.
MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned subject to notice.

MASON N. RICHARDSON, *Examiner.*

230 WASHINGTON, D. C., *May 14th, 1900—3 o'clock p. m.*

Met pursuant to agreement of counsel at the clerk's office of the Court of Claims, cor. 17th and Penna. Ave., to take further testimony for and on behalf of the defendant.

Present: C. C. Tucker, Esq., for the complainant. A. A. Birney, Esq., for the defendant. Mr. Butterfield, defendant, examiner and witness.

Whereupon GEORGE W. TAYLOR, a witness of lawful age, being first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your name, age and occupation? A. My name is George W. Taylor, age 39, and occupation, clerk in the Court of Claims.

Q. As clerk in the Court of Claims have you here present the original files in certain cases heretofore heard before the Court of Claims? A. They are.

Q. Have you here the original files in the case of Susan Merrill, No. 1681 Congressional? A. They are.

(The witness here produces the files.)

Q. Please look at the paper marked—file marked of the court, filed November 22, 1887, and describe it? A. It appears to be a power of attorney from Susan Merrill, Tupelo, Lee county, Mississippi, to Gilbert Moyers.

Q. Dated when? A. Dated the 16th day of November, 1887, and sworn to before R. D. Porter, clerk, circuit court, Lee county, Mississippi.

Q. Is that the original paper on file in this court as the original power of attorney? A. It is.

Q. Please look at the docket or other proper place of record of that case and say if George B. Edmonds appears to have been in any way concerned in it in this court? A. The name of George B. Edmonds does not appear anywhere on the record.

Q. The files in these cases also contain the original petition filed before the commissioner of claims under the act of 3rd of March, 1871? A. As far as I know they often contain the original petition and often they do not.

Q. Look in the files of Susan Merrill's claim and I produce to you the original petition and state who appear on that petition to have been the attorneys for the claimant.

(Witness here produces from the files the original petition in question and examines it.)

A. Pruett and Francis appear to have been the attorneys before the Southern Claims Commission in this case.

Q. When was that petition filed before the claims commission.

A. It does not appear what date it was filed.

Q. Give the date of the petition then? A. It was filed before the commissioners of claims and it was sworn to before John L. Moseley, United States commissioner, April 30, 1872.

Q. Who was the attorney of record in this court, Mr. Taylor? A. In this case?

Q. Yes, sir. A. Gilbert Moyers.

Q. Did any other person appear to be interested as attorney. Q.
No one appears on the record.

Q. Did you know the firm of Pruett and Francis? A. I did not.

Q. Do you know Mr. John R. Francis? A. I do not know him.

Mr. TUCKER: I want to put in an objection there to all of the foregoing testimony of this witness. I object to it as wholly immaterial, it being immaterial whether George B. Edmonds appears of record as attorney in the case referred to or not, the point at issue between the parties to this case being whether this case was covered by the partnership agreement mentioned and described in the bill of complaint

Q. Mr. Taylor, will you now produce the files in case No. 4931 and 6966, Congressional, the case of Henry T. Cate against the United States?

(The witness now produces the files in question.)

Q. Please look on the docket and say who is the attorney of record in the case of Cate—whether George B. Edmonds appears to have been interested as attorney in the case?

233 Mr. TUCKER: Objected to for the reason stated above.

A. Gilbert Moyers appears as attorney of record.

Q. In the Court of Claims? A. Yes sir, in this case.

Q. Does George B. Edmonds? A. The name of George B. Edmonds does not appear anywhere?

Mr. TUCKER: Same objection.

Q. Will you please produce the power of attorney filed in this case of Cate against the United States in this court?

(Witness here produces the power of attorney.)

Q. Please describe the same. A. It appears to be a power from Henry T. Cate, West Fork, post office, Washington county, Arkansas. Sworn to before James H. Van Hood, notary public, the 27th day of January 1888, filed in the Court of Claims, July 30th, 1888.

Mr. BIRNEY: The power of attorney described by the witness is here offered in evidence on behalf of the defendant and the examiner is requested to make a copy of the same, the original being a part of the files of the Court of Claims.

Power of Attorney.

Know all men by these presents, that I, Henry T. Cate, of West Fork, P. O., county of Washington, in the State of Arkansas, have made, constituted and appointed, and by these presents, do make, constitute and appoint Gilbert Moyers, of Washington, D. C., my

234 true and lawful attorney irrevocably for me, in my name, place and stead hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises to prosecute my claim against the United States for stores and supplies taken by the Federal forces for their use during the late rebellion and to prosecute the same before any of the departments of the Government or before the Congress of the United States, before any office, commission or convention specially authorized to take cognizance of said claim or through any diplomatic negotiations that may be deemed best for the interests of all parties concerned in this matter and to from time to time furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and authority to do and to perform all and every act and thing whatsoever requisite and necessary to be done in and to the premises as fully and to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation and to receipt and sign all vouchers, hereby confirming all that my said attorney, or his substitute, may or shall lawfully do or cause to be done by virtue hereof, and I do hereby authorize all certificates or drafts in payment thereof to be delivered or sent to my said attorney and in consideration of my said attorney's services and expenses I do hereby acknowledge a lien in favor of my said attorney on any draft or certificate that may be issued in payment of said claim.

In witness whereof I hereunto set my hand and seal this 27th day of January, 1888.

HENRY T. CATE. [SEAL.]

J. F. MAYS.
V. J. ELDER.

Must be attested by two witnesses.

235 STATE OF ARKANSAS, }
County of Washington. }

Be it remembered that on this 27th day of January, 1888, before the undersigned, a notary public, within and for the county and State aforesaid, personally appeared the within named Henry T. Cate, with whom I am personally acquainted and who acknowledged that he executed the foregoing power of attorney for the purposes therein contained.

In witness whereof, I have hereunto set my hand and seal at office the day and year last above mentioned.

JAMES H. VAN HOOD,

[NOTARIAL SEAL.]

Notary Public.

Endorsed as follows: Court of Claims. Power of attorney, No. 4931 Cong. Claim of Henry T. Cate, Washington, Ark. (Underneath in print.) Filed by Gilbert Moyers, Washington, D. C. Filed, July 30th, 1888.

It is agreed between counsel that the form of the power of attorney in question is similar to that in the case of Susan B. Merrill.

Mr. TUCKER: The solicitor for the complainant objects to all the testimony of this witness which has for its object an attempt to show that George B. Edmonds does not appear to have been an attorney of record in any of the cases in the Court of Claims which have been or will be referred to by the witness, upon the ground that such testimony is utterly immaterial, the issue being the parties being
236 as to whether the cases in question were included in the partnership agreement between Edmonds and the defendant, which is described in the bill of complaint.

It is agreed between counsel that this objection shall apply generally, to all questions, the purpose of which is to adduce testimony of the character indicated.

MASON N. RICHARDSON, *Examiner.*

Q. Please look at the original petition before the claims commission in the case of Henry T. Cate and state who was the attorney who filed that petition. A. The petition appears to have been filed by George W. M. Reed, of Fayetteville, Arkansas.

Mr. TUCKER: The question and answer are objected to as wholly immaterial.

Q. Now, look at your docket in the case of J. C. Tappan, administrator of Samuel L. Sutton, 5160, and state who appears to have been the attorney of record and whether George B. Edmonds appears in anywise connected with the case. A. The names of Moyers and Edmonds appear on the record as attorneys of record in this case.

Q. When was the appearance entered? A. November 9th, 1888.

Q. Now look at the case of Richard Butler, No. 6850. A. In this case no one appears on the record as attorney of record.

Q. Does the name of George B. Edmonds appear there? A. The name of George B. Edmonds does not appear.

237 Q. Who appears to be the attorney of record by the findings of fact, made by the court in the case? A. Gilbert Moyers.

Q. Give the date of the findings of fact. A. June 10th, 1895.

Q. Look at the case of John P. Davidson, No. 6809 and say what attorney or attorneys appears of record? A. Gilbert Moyers appears as attorney of record.

Q. When was his appearance entered? A. February 20th, 1889.

Q. Does George B. Edmonds appear in any way in the case? A. The appearance appears to be filed by Moyers and Edmonds, but the name of Gilbert Moyers appears on the margin of the docket as attorney of record.

Q. Please read the entries? A. February 20th, 1889, appearance filed by Moyers and Edmonds, Esqs. Opposite appears the name of Gilbert Moyers on the margin of the docket.

Q. Look at the case of Samuel Bagnell, administrator of Tenor Brayboy, No. 7448. Who appear to be the attorney or attorneys in the case of record? A. Gilbert Moyers appears as attorney of record.

Q. Does George B. Edmonds appear in anywise in that case? A. The name of George B. Edmonds does not appear anywhere in the record.

Q. Give the date of the entry of Moyers' appearance? A. March 14th, 1890.

Q. Who was the attorney before the commissioner of claims? A. It appears to have been filed by Richard McAllister.

Q. Of what place? A. Washington, District of Columbia.

Q. Now, look at Mrs. Ann Hunt, administratrix of George N. Hunt, No. 6568. Who appears to have been the attorney? A. Gilbert Moyers.

Q. Does George B. Edmonds appear in the case? A. The name of George B. Edmonds does not appear anywhere on the record.

Q. What was the date of the appearance of Mr. Moyers? A. It appears that his appearance was filed the time he entered a call on the clerk of the House of Representatives on October 27th, 1888.

Cross-examination.

By Mr. TUCKER:

Q. In the case just referred to, that of Brayboy against the United States, I hand you a paper and ask you whether that is the appearance of Gilbert Moyers, attorney for the claimant, an original appearance? A. That is the original appearance of Gilbert Moyers in this case.

Q. What is its date? A. March 14th, 1890.

Q. Please read that paper to the examiner as it appears—the whole of it? A.—

In the Court of Claims, December Term, 1889-'90.

DANIEL W. BRAYBOY, Deceased, }
vs. } No. 7488. Congressional.
UNITED STATES. }

239

Appearance.

Notice is given of my appearance as attorney for the claimant in the above entitled cause.

GILBERT MOYERS, Attorney.

Q. Please state how much of that you just read is in print and how much is in writing? A. Only the caption and the number of the case is in writing.

Q. All the rest is in print? A. Yes, sir.

Q. Turn on the back please and say whether that is blank or whether on that paper appears the professional card of Gilbert Moyers printed? A. It does.

By Mr. BIRNEY:

Q. Turn to the record in the case of Thomas W. Russell against the United States, No. 4475.

(Witness looks at the docket.)

Q. Who appears to be the attorney of record in the Court of Claims? A. It appears that on May 28th, 1888, Gilbert Moyers filed an appearance and power of attorney. His name was copied on the record as attorney of record. It also appears on October 29th, 1889, a power of attorney was filed by P. E. Dye, Esq. His name was also entered on the docket of the case.

Q. Who filed the original petition. Please look at the 240 original petition in the Court of Claims and say?

Handing witness original petition.

A. The original petition was filed by P. E. Dye, Esq., of Washington, D. C.

Q. Who appears as original attorney before the commissioner of claims? A. It appears to have been filed by Enos Richmond.

Q. Who was the attorney who filed the briefs in this court? A. There are a good many briefs in this case. I can answer very readily by looking over the papers.

Q. My question was who filed the briefs? A. The briefs all appear to have been filed by P. E. Dye.

Q. Who filed the request for findings of fact? A. (Looking at the docket.) Filed by P. E. Dye.

Q. Who appears as attorney in the findings of fact by the court and what was the date of those findings? A. P. E. Dye, appears as attorney for the claimant in the findings of fact filed by the court and the same being filed on December 18th, 1893.

Q. Mr. Dye, as an attorney of this court you say? A. Yes, sir.

Q. Practicing law in Washington? A. Yes, sir.

Mr. TUCKER: This testimony of the witness with respect to the entry of Col. P. E. Dye as attorney of record in this case and the filing by him of various briefs is objected to as the answer of the defendant in this case admits the collection by him, the said defendant, of the amount appropriated to pay the judgment in this case.

241 By Mr. TUCKER:

Q. Mr. Taylor, you have on direct examination respecting this Russell case—Russell against The United States, No. 4475, testified that the docket shows an entry under date May 28th, 1898, of the

appearance of Gilbert Moyers, as attorney for the claimant, and the filing by him of a power of attorney I hand you a paper and ask whether that is the original entry of appearance that you have just referred to? A. It appears to be the original appearance.

Q. Kindly read that entry of appearance? A. In the court of claims. December term 1889. This is all wrong here. They have filed here an appearance with name of one case on the inside and the name of another case on the back.

Mr. TUCKER: Read it as it is.

A.—

In the Court of Claims, December Term, 1888.

MORGAN COXEN }
vs. } No. 4465, Congressional. Appearance.
THE UNITED STATES. }

Notice is hereby given of my appearance as attorney for the claimant in the above entitled cause.

MOYERS AND EDMONDS, Attorneys.

Q. Read the back—the endorsement on the back? A. 4475 Congressional. Court of Claims, Thomas Russell against the United States. Appearance filed by Moyers and Edmonds, attorneys for claimant, May 28th, 1888. J. R.

242 Q. Mr. Taylor, this paper that you have just referred to and read is in the files of the case of Russell against the United States, No. 4475, is it not? A. It is.

Q. I hand you now a paper which purports to be a power of attorney taken from the files in that case and ask you to describe that?

(Handing witness paper.)

A. It appears to be a power of attorney from Thomas W. Russell, of Clark county, Virginia, to George B. Edmonds of Washington, D. C., dated the 20th day of March, 1886. Witnessed, but not acknowledged before any officer. It was filed May 28th, 1888.

Q. Now, will you take these papers, Mr. Taylor, and find for me the entry of appearance of Gilbert Moyers and the power of attorney to him that you have just stated is docketed upon your docket. A. The power of attorney and the appearance first referred to May 28th, appears to be the appearance and the power of attorney just stated.

Q. Now, look at the docket, Mr. Taylor, and read the entries there and state what the relative position of the entry of Gilbert Moyers is to the entry of appearance? A. The record shows "May 28th, 1888, appearance power of attorney filed." The name of Gilbert Moyers is entered on the margin in the same hand writing.

By Mr. BIRNEY

Q. Do the papers show any action by Gilbert Moyers in the case or any action after the filing of the petition by anybody besides Mr. Dye? A. The claim appears to have been prosecuted throughout by P. E. Dye, with the exception of one paper which is filed June 6th, 1890, by Gilbert Moyers, who made a call on the archives office of the War Department.

Mr. TUCKER: Question and answer objected to upon the ground that by the fourth paragraph of his answer the defendant admits having collected the judgment in the case just referred to that of Russell against The United States, No. 4475, which is included in the schedule attached to the bill of complaint.

Q. Now, look at the case of F. J. L. Roberts, No. 4711, and state who appears to have been the attorney of record in that case? A. The first appearance in the case was of June 28th, 1888, by G. W. Z. Black, and made a motion for call on the clerk of the House of Representatives. The next appears on November 8th, 1888, when Moyers and Edmonds filed an appearance.

Q. Any further appearance? A. No further appearance.

Q. Who was the attorney before the commission of claims?

Mr. TUCKER: Objected to as wholly immaterial.

A. G. W. Z. Black.

Q. And who was the attorney in the reference from Congress?

Mr. TUCKER: Same objection.

A. G. W. Z. Black.

Q. Who filed the petition in the Court of Claims? A. G. W. Z. Black.

Q. Who was the attorney who prepared the brief on loyalty and on merits? A. G. W. Z. Black.

Q. And in the findings of fact?

Mr. TUCKER: Same objection.

A. In the findings Black appears for the claimant.

Q. Who took the testimony as attorney for the claimant? A. G. W. Z. Black appears for the claimant in the taking of testimony.

Q. Does anything appear to have been done in the case by Mr. Moyers or Mr. Edmonds other than what you have stated? A. It does not appear that Moyers and Edmonds did anything in the prosecution of the claim.

Mr. TUCKER: All the testimony of this witness relating to the claim of Roberts against The United States objected to on the ground that the defendant in his answer admits the collection of money appropriated to pay this claim and the testimony is therefore immaterial.

GEORGE W. TAYLOR.

Subscribed and signed by me this 14 day of May, 1900, for the witness by consent and agreement of counsel.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned until the next day Tuesday May 15th, 1900, at the hour of 2 o'clock p. m.

MASON N. RICHARDSON, *Examiner.*

245 WASHINGTON, D. C., *May 15th, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the clerk's office of the Court of Claims, to take further testimony for and on behalf of the defendant:

Present: Same parties.

Whereupon GEORGE W. TAYLOR, heretofore sworn, was re-called, and testified as follows—

By Mr. BIRNEY:

Q. Turn now to the case of Ann Hunt, administrator of George F. Hunt, No. 6568, and state who was the attorney or attorneys who appeared of record in the case and when was the petition filed? A. Gilbert Moyers. He is the only attorney of record.

Q. He is the only attorney of record? A. Yes, sir.

Q. When was the petition filed? A. June 30th, 1890.

Q. When was the first appearance for action by Mr. Moyers in the case? A. October 27th, 1888, when he made a call on the clerk of the House of Representatives for the original papers in the case.

Q. Look now at the files and state who appeared to have been the attorneys in the case before the commissioners of claims.
246 A. Bartley and Jenner, and Adams and Speed.

Q. Does George B. Edmonds appear anywhere on the record as having been interested in the case? A. There is nothing on the record to show that George B. Edmonds was ever in the case.

Q. Does the record show any power of attorney to Mr. Moyers or to any one associated with him? A. It does not.

By Mr. TUCKER:

Q. Adams and Speed you have referred to as the attorneys—the original attorneys in this case were non-residents were they not? A. I do not know.

Q. Read the endorsement, if you please, on the paper in your hand taken from the jacket? A. "Adams and Speed, Vicksburg, Mississippi," appear on the paper just handed me.

Q. Is this motion for a call on the clerk of the House of Representatives the first indication that Gilbert Moyers was interested in this case? A. It is.

Q. That paper that I handed you and which purports to be such

a motion is on a printed blank used by Gilbert Moyers is it not?
A. It is.

Q. And bears what date? A. Filed, November 17th, 1888.

247 By Mr. BIRNEY:

Q. Please turn to the record in the case of Evalina T. Beasley, widow of John P. or T. Beasley, afterwards prosecuted in the name of Samuel Black, administrator of John P. or T. Beasley, No. 1136 Congressional. Now look first at the files in the case and state who was the attorney who filed the petition before the commissioner of claims and when he filed it?

Mr. BIRNEY: Attorney for the defendant here states that the testimony as to this case is offered for the purpose of impeaching the verity of the schedule attached to the copy of the contract between George B. Edmonds and Gilbert Moyers and with knowledge of the fact that it does not appear in Complainant's Exhibit One attached to his bill of complaint.

Mr. TUCKER: In addition to the general objection heretofore interposed to the testimony of this witness, this question is objected to on the ground that the issue between the parties to this cause is as to the distribution of the fees in the cases described in Exhibit One of the bill of complaint and it does not appear that the case mentioned in the answer appears in that exhibit or is involved in any way in this suit.

Q. Now, Mr. Taylor, you can answer. A. The petition before the claims commission was filed by Gilbert Moyers.

Q. The date? A. The date of the filing of which does not appear, but was sworn to by Evalina T. Beasley, the 23rd day of November, 1872, before John Hillard, justice of the peace.

248 Q. Who was the attorney who took the testimony before the claims commission as appears from these files and when was it taken? A. It was taken by Gilbert Moyers.

Q. The date? A. December 24th, 1872, Valley Grove, Monroe county, Arkansas.

Q. Who filed the original petition in the Court of Claims? A. The original petition was filed March 12th 1888, by Leon D. Geneste.

Q. When was Gilbert Moyers substituted for Leon D. Geneste as attorney of record and under what conditions? A. On May 1, 1899, a motion of Gilbert Moyers to be substituted as attorney of record vice Leon D. Geneste, abandoning the case was allowed subject to the condition of the order on said motion, to wit: "That the rights of the heirs of Leon D. Geneste to share in the fees to be preserved, that he may be required to account therefor."

Q. Is there anything in the record of the case to show any connection that George B. Edmonds had with it? A. Nothing that I am able to see.

Q. When was the case allowed? A. February 17th, 1896.

Mr. TUCKER: The testimony of the witness relating to this claim is also objected to and at the hearing of the testimony of this relating thereto will ask that it be stricken out upon the further ground that the claim of Evalina T. Beasley, does not appear in the schedule attached to the partnership agreement between Edwards and Moyers of 1888.

249 By Mr. TUCKER:

Q. Mr. Taylor, where does it appear that this claimant Evalina T. Beasley is the widow of John T. Beasley? A. In the original petition filed March 12th, 1888, she states that she is the widow of John P. Beasley, deceased, which is sworn to before C. D. Dawson, notary public.

By Mr. BIRNEY:

Q. Please turn now to the cases of Wilson W. Williams, administrator of Roderick Williams, No. 4203 and 5158, and say who appears to have been the attorney for the claimant before the claims commission. A. Richard McAllister.

Q. When was the claim filed by him—in what year, if you cannot give the exact date. A. It is endorsed on the back of the petition "January 10th, 1873, all evidence is here and the case is submitted." That is the only date appearing on the paper.

Q. Who appears to have been the attorney of record in the Court of Claims? A. Gilbert Moyers.

Q. Look now at the power of attorney from the claimant in the cause and say to whom it was made and when? A. Power of attorney appears from Wilson Williams, administrator of R. Williams, deceased, of Oxford, Lafayette county, Mississippi, under date of 11th of January 1888, filed in the Court of Claims May 15th, 1888.

Q. Power of attorney to whom? A. To Gilbert Moyers.

250 Q. Does any other attorney appear of record in the prosecution of the case. A. No other attorney appears on the record in this case.

By Mr. TUCKER:

Q. The power of attorney in this Williams case is on a printed form is it not with the name of Gilbert Moyers in print contained in it? A. It is.

Q. Is there anything in the record to show how the original attorney, Richard McAllister, became disconnected with the case? A. It appears that Richard McAllister prosecuted the claim before the claims commission. That has nothing to do with the prosecution of the claim in this court.

Q. I hand you one of the papers contained in the files of this case purporting to be a petition of Wilson Williams addressed to Congress and relating to this claim and ask you to look at the endorsement thereon and state what member of Congress appears to have

presented that petition? A. Hon. J. B. Morgan of Mississippi—of third Mississippi.

Q. I hand you another paper taken from the files of this case, purporting to contain the testimony of Josiah Wilson and William M. Bolles, and ask you to state by what attorney that testimony seems to have been taken? A. It appears to have been taken by M. J. Baiden.

By Mr. BIRNEY:

Q. Turn now to the record on file in case No. 3898, George Show against The United States, and state who appears to have been the attorney for the claimant before the commissioner of claims. A. G. W. Z. Black. (Witness looking at the original petition.)

Q. When was that claim filed before the commissioner of claims, if you can tell by anything that appears upon it? A. The only date that appears upon the papers is April 24th, 1872.

Q. Who filed the original petition in the Court of Claims when it was filed? (Witness looking at the docket.)

A. It was filed by G. W. Z. Black, January 6th, 1890.

Q. Who prepared and signed the briefs as attorney? A. G. W. Z. Black.

Q. Who is the attorney named in the findings of fact by the court and when were the findings made? A. The findings of fact, G. W. Z. Black appears for the claimant and they were filed May 22nd, 1893.

Q. And who took the depositions of the witnesses? A. G. W. Z. Black appears for the claimant and in all the depositions taken before this court.

Q. Does any other attorney, other than Mr. Black, appear to have taken any part in the case? A. G. W. Z. Black appears to have prosecuted the case from beginning to end in the Court of Claims. The only papers that I am able to find filed by any other person is a power of attorney from George Show of Shepherdstown, to George B. Edmonds, and filed in the Court of Claims May 7th, 1888, and appearance by Moyers and Edmonds filed May 7th, 1888.

252 Mr. TUCKER: All of the testimony of the witness relating to the claim of Show against The United States is objected to and at the hearing will move to strike the same out upon the ground that it is utterly immaterial who appears of record as attorney in the case in view of the admission of the defendant in his answer that he collected the money appropriated to pay this claim and paid his fee therefrom.

By Mr. TUCKER:

Q. Mr. Taylor, this power of attorney to George B. Edmonds dated February 17th, 1886, and filed May 7th, 1888, is on a printed

form is it not with the name of George B. Edmonds appearing in print on its face? A. Yes, sir.

Q. Now, will you please read the entry of appearance, the original entry of appearance which was filed May 7th, 1888 say that a copy of the same may be spread upon the record? A. Court of Claims. George Show against The United States. No. 3878, Congressional. We hereby enter our names as attorneys for the above named claimant. (Signed) Moyers and Edmonds."

Q. That was filed in the Court of Claims when? A. Filed in the Court of Claims May 7, 1888.

Q. That is the same date that the power of *power* was filed? A. Same date.

253 By Mr. BIRNEY:

Q. Do you know whose hand writing the notice of appearance is in? A. I do not know.

Q. Are you familiar with the hand-writing of Gilbert Moyers? A. I am.

Q. Is that paper in his hand-writing?

Mr. TUCKER: Object on the ground that no sufficient foundation has been laid for an expression of the witness' opinion as to whether the paper in question is in the hand writing of Gilbert Moyers?

Q. How have you become familiar with the handwriting of Mr. Moyers? A. By taking his acknowledgment to papers, being a notary public and from other papers filed in the Court of Claims, etc.

Q. He is an active practitioner before this court? A. He is.

Q. You have seen a great many papers signed by him? A. A great many.

Q. You are therefore familiar with his signature—with his hand-writing? A. Yes, sir, very familiar with it.

Q. I will ask you whether that paper is in his handwriting—that appearance or not is in his handwriting?

Mr. TUCKER: Objected to as immaterial and incompetent, it being manifestly immaterial whether the paper in question is in the hand-writing of one or the other of the two partners, Moyers or Edmonds.

A. It is not.

254 Q. Turn now to the record in the case of 4514, Congressional, of Christian Ubele, administrator of T. Ubele, deceased. Who appears to have prosecuted that case before the commissioner of claims? A. D. W. Stone, of Savannah, Georgia and W. Penn Clark of Washington, D. C.

Q. Who prosecuted it in this court? A. The claim appears to have been prosecuted from beginning to end by W. Penn Clark, whose name also appears in the findings of fact filed by the court on April 18th, 1892, as attorney for the claimant.

Q. What other *other* attorneys, if any, appear in any way by any papers in the files and how do they appear? A. The only other attor-

neys that appear in the case are as follows: On June 2, 1888, appearance -as filed by Moyers and Edmonds, attorneys, with a power of attorney from Christian Ubele, of Savannah, Georgia, to George B. Edmonds, of Washington, D. C., dated 26th day of February, 1886, an appearance filed by F. P. Dewees, filed October 14th, 1893, and a motion to certify the findings of fact to Congress, signed by F. P. Dewees, attorney for claimant, filed January 31, 1894.

Q. Do the papers or the docket show any action by any other attorney than W. Penn Clark, other than the filing of the papers you have just mentioned? A. None whatever with the exception of the motion of F. P. Dewees to certify the findings to Congress.

Q. Do you know what his relation was of W. Penn Clark? A. I do not know.

Q. Look now at the appearance of Moyers and Edmonds, 255 attorneys, of which you have spoken and say if the written portion thereof, being the signature, is in the handwriting of Mr. Moyers?

Mr. TUCKER: Objected to as immaterial and incompetent.

A. To my knowledge of Mr. Moyers' hand writing I should say that it was not in his hand writing.

Mr. TUCKER: Same objections are made to the testimony of the witness relating to the case of Christian Ubele, administrator, as were made to his testimony relating to the Show case and at the hearing will move to strike such testimony from the record.

By Mr. TUCKER:

Q. Now, if you please, Mr. Taylor, look at the original motion for the withdrawal of the papers and state in whose hand writing the signature is in attached to that motion and in whose hand writing the endorsement on the back thereof is in? A. I do not know.

Q. Is not the signature to the original motion in the hand writing of Gilbert Moyers? A. From my knowledge of Mr. Moyers' hand writing I should say that it was not.

By Mr. BIRNEY:

Q. Please look at the files and docket entries in case No. 1156, Congressional, being John Ehs against The United States and say who was the attorney for the claimant before the claims commission and when was the claim filed before that commission? A. It appears to have been filed by Gilbert Moyers March 12th, 1872.

256 Q. Who took the testimony before that commission as attorney for the claimant? A. It was taken by Gilbert Moyers.

Q. Who appears to have acted as attorney for the claimant in the Court of Claims? —. Gilbert Moyers prosecuted the claim before the Court of Claims.

Q. When was his appearance entered in the court and petition

filed? A. The appearance was filed June 30th, 1887, and the petition was filed by him March 28th, 1893.

Q. Does any other attorney appear to have taken any part in the case? A. No other attorney appears to have been in this case.

Q. What was the date of the findings of fact? A. December 7th, 1896.

By Mr. TUCKER:

Q. Mr. Taylor, the entry of appearance—the original entry of appearance is simply a printed form with the name of the claimant and the number of the case inserted in hand writing is it not? A. It is.

Q. And is evidently on a printed form used by Gilbert Moyers at the time? A. It is.

Q. And the original petition in the case consists of printed 257 form with the name of the claimant, his residence, the amount of the claim, and the stores for which renumeration is asked filled in in handwriting is it not? A. Yes, sir.

By Mr. BIRNEY:

Q. Look now at the record and files—the docket and files in the case of John R. Hornbaker, No. 7950 Congressional and say who appeared to have been the attorneys in the claim before the commissioner of claims? A. Whittlesey and Willoughby of Alexandria, Virginia and Washington, D. C.

Q. In what year? A. Filed April 17th, 1871.

Q. When was the petition filed in this court and by whom? A. The petition was filed May 12th, 1894, by Gilbert Moyers.

Q. And who afterwards prosecuted the case? A. Gilbert Moyers.

Q. Does George B. Edmonds appear to have had anything to do with the case? A. The name of George B. Edmonds does not appear anywhere on the record or in any of the papers filed in the case.

By Mr. TUCKER:

Q. Look at this entry of appearance, Mr. Taylor, please and state when that was filed? A. Filed September 3rd, 1890.

Q. And in whose handwriting is it? A. I do not know.

Q. Is it in Gilbert Moyers' handwriting? A. From my 258 knowledge of Gilbert Moyers' handwriting I should say that it was not.

Q. I hand you a motion for call on the C. S. archives taken from the files of the case and ask you by whom that motion was made and the date of it? A. It was made by Gilbert Moyers and filed October 30th, 1896.

Q. Is that in his handwriting? A. It is not in his handwriting.

GEORGE W. TAYLOR.

Subscribed and sworn to before me this 15 day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

Hereupon the further taking of testimony in this cause was adjourned subject to notice.

MASON N. RICHARDSON, *Examiner.*

WASHINGTON, D. C., *May 17th, 1900—3 o'clock p. m.*

Met pursuant to agreement of counsel at the law offices of A. A. Birney, Esq., Mertz building, to take further testimony for and on behalf of the defendant.

Present: Same parties.

259 Whereupon CHRISTOPHER N. WILSON, a witness heretofore sworn, being recalled for further direct examination, testified as follows:

By Mr. BIRNEY:

Q. Mr. Wilson, in 1872-3 were you at any time engaged in the taking of testimony as commissioner in cases pending before the Southern Claims Commission? A. In both of those years; yes, sir.

Q. Where did you take such testimony as commissioner? A. Throughout the State of Mississippi and in north Louisiana.

Q. By whom were you appointed as such commissioner? A. By the president of the Southern Claims Commission. I think his name is Alders. I think so.

Q. Are you familiar with the case of Samuel Bagnell, administrator of Tenor Brayboy, which was before the Southern Claims Commission. A. Yes, sir. I know Mr. Bagnell personally. I took the testimony in the case of Brayboy.

Q. Have you seen the original files in the Court of Claims of that case? A. I have.

Q. Numbered 7448 on the Court of Claims docket? A. Yes, sir.

Q. In whose handwriting is the testimony in that case filed before the Southern Claims Commission? A. In my handwriting.

Q. Who took the testimony as attorney before you as com-
missioner on behalf of the claimant? A. John D. Beaird
for Col. Moyers.

Q. You knew Mr. Beaird represented Col. Moyers did you? A. Yes, sir.

Q. The attorney of record at that time in that case seems to have been Richard McAllister. Did you know what relation he was to Col. Gilbert Moyers? A. I know that Col. Moyers took his entire business and he was associated with him in some manner. I don't know the particulars while he was in Mississippi, but afterwards Col. Moyers assumed the entire business.

Q. Do you recall the case of Wilson Williams, administrator of Roderick Williams in which Richard McAllister was also attorney before the commissioners? A. No, sir; I did not.

Q. Do you recall the case of Hattie E. Ladd? A. I think I took the testimony in that case. Her name was Hattie E. Black at the time.

Q. Do you recall who was the attorney appeared in that case to take the testimony? A. The same gentleman, John D. Baird. He had charge of the Vicksburg office. Col. Moyers had a branch office at Vicksburg and he had charge of this branch office when I took this testimony.

Q. Have you any further information as to the connection between Col. Moyers and Richard McAllister at that time? A. I have not, sir.

Mr. TUCKER: All of the testimony of this witness at this session is objected to upon the ground of its immateriality and irrelevancy.

The rights and obligations of the decedent, George B. Edmonds, and the defendant being fixed and defined by the partnership agreement of 1888 and not by any precedent or connection of the defendant with cases described in those articles of partnership.

Cross examination.

By Mr. TUCKER:

The following questions are asked without waiving the above objection.

Q. You are now employed by Col. Moyers? A. I am, sir.

Q. And have been employed by him how long? A. Well, nearly two years.

Q. You are familiar with the class of cases, three of which you just testified concerning, known as the Bowman Act cases? A. I testified to but two.

Q. Two then, I thought you said three. A. I am familiar with them yes, sir.

Q. Is it not a fact that in the course of the prosecution of those cases various attorneys would become connected with them? A. Yes, sir, probably it might be so, sir.

Q. And would it not often happen that the claimants would make contracts with several attorneys and give powers of attorneys to several attorneys? A. Not that I know of. Not that I know of. I do know this, however, that the gentleman present here, Col. Moyers, had a persistency about him in these cases and wherever a claim was disallowed by the Southern Claims Commission he has kept in touch with the claimants and taken them up again when an opportunity offered.

Q. And has he not, as attorney of record in many of these cases, come in conflict with contracts and powers of attorney

of other attorneys? A. Not that I know of. Not in those two cases I have testified about.

Q. I am not speaking of those two cases, but in this class of cases generally. A. Well, there are times when other attorneys have become discouraged and given up that class of southern claims and in those cases other attorneys were employed no doubt—because in this class of cases years have gone by without appropriation and many attorneys became discouraged and threw up the cases and in those cases of that kind under the act other attorneys were employed.

Q. Do you know of any cases in which Col. Moyers became discouraged? A. No, sir, he had a pugnacity about him that was wonderful in matters of that kind and sometimes to his own detriment, I think.

CHRISTOPHER N. WILSON.

Subscribed and sworn to before me this 17th day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

263 P. E. DYE, a witness heretofore sworn, being recalled for further direct examination, testified as follows:

By Mr. BIRNEY :

Q. Mr. Dye, you have been heretofore sworn in this case? A. I suppose this is the same case. I don't know—yes, sir.

Q. You have testified that you have been for a number of years an attorney in the prosecution of claims before the Court of Claims and the departments? A. Yes, sir.

Q. You are familiar with the case of James W. Russell No. 4475 on the Court of Claims docket? A. Yes, sir, I prosecuted it.

Q. Who was the attorney in that case, if you know? A. I was the attorney.

Q. During the whole of the case or a part of it? A. As far as I know all through it.

Q. And who collected the appropriation? A. I did.

Mr. TUCKER: This question and all similar questions which have for their object the adducing of testimony to show that some attorney other than the defendant collected the sums appropriated to pay the judgment in this case, is objected to upon the ground that the defendant by his answer has admitted that he collected the appropriation made to pay the judgment in this case. It is understood that this general objection shall apply to all questions having such testimony for their object.

264 Q. Did you receive the fee in the case? A. Yes, sir.

Q. To your knowledge did Col. Moyers have anything to do with the case? A. I do not know that he did. He did not certainly with me.

Q. Did he share in the fee? A. No, sir.

Q. Do you know of any connection that George B. Edmonds had with the case? A. I do not know anything about it.

Q. You never knew him as attorney in the case in any way? A. No, sir; I got the case from the claimant.

Cross-examination.

By Mr. TUCKER:

Q. Col. Dye, without waiving the objection heretofore made, I will ask you whether or not you are acquainted with the fact that in that case an appearance was entered for the claimant by Moyers and Edmonds? A. I did not know of that. I did not notice that it was ever done. You mean entered as attorney of record?

Q. Yes, sir. A. No, I never knew anything of the kind.

Q. Were you not acquainted with the fact that there is in the files of the Court of Claims in that case a power of attorney from the claimant to George B. Edmonds dated March 20th, 1886? A. I do not know anything about it.

Q. And what was the date of your contract and power
265 of attorney with the claimant in that case? A. I cannot tell
you. I have not looked at it in a long time. I could tell if
I had my papers. My power of attorney was gotten from the father
during his lifetime. I was in Berryville and he came to me and
wanted me to prosecute the case and gave me a power of attorney.
I cannot give the date of the power of attorney or contract for fees,
and after his death his son was appointed the administrator to re-
ceive the money.

Q. What was the name of the son? A. I do not know, as I can-
not tell just this moment. He is a druggist at—I don't think I can
give the name, but it is some distance from Berryville. I have an
impression that it is south on the pike from Berryville, Clark county,
Virginia. If there are any other attorneys in the case I did not
know it. There was no one interfered with me in it or ever
claimed any right in it, to control it or manage it in any way.

P. E. DYE.

Subscribed and signed for the witness by me by consent and
agreement of counsel this 17 day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

GILBERT MOYERS, a witness of lawful age being first duly sworn, according to law for and on behalf of himself, as defendant, testified as follows:

By Mr. BIRNEY:

266 Q. You are the defendant in this case? A. Yes, sir, I am.

Q. What is your profession, and how long have you practiced it? A. I am a lawyer and have been practicing my profession over forty years.

Q. And for a number of years past where has been your practice? In what courts has been your practice? A. Principally in the Court of Claims in the last 15 or 20 years.

Q. There has been produced here and offered in evidence a duplicate of contract made between you and George B. Edmonds to which is attached a schedule or list of cases and testified to be in the handwriting of George B. Edmonds, deceased. Will you please state when you first saw that list or schedule of cases?

Mr. TUCKER: In so far as this question calls for testimony from this witness in any wise relating to conversations or transactions that he may have had with the deceased George B. Edmonds, it is objected to as in contravention of the statute.

A. I never saw it until after this controversy commenced.

Q. Explain what you mean by this controversy. Do you mean this litigation? A. I mean until the first—I was first informed that there was a contention made as to Edmonds' interests in certain cases involving what purported to be a schedule of cases transferred by Edmonds to me. No such schedule was ever furnished me at the time of signing the contract referred to.

267 Q. There has been produced on your behalf your duplicate of the contract in question. Was there ever a schedule attached to that duplicate? A. There was not.

Q. Your last answer refers to having heard some short time ago of this list or schedule. When did you first see it? A. The first information I had in regard to the matter was from Mr. Butterfield.

Q. About what time? A. I cannot give the dates. It was subsequent to the appropriation of 1899, known as the appropriation to pay what is known as the Bowman Act cases. What was termed as the omnibus bill.

Q. Then you first saw the list after that time? A. I never saw the list at all to examine it in fact. I never made any critical examination until recently.

Q. I call your attention now to the cases enumerated in the Complainant's Exhibit No. One attached to the bill and ask you to take them up in the order in which they are there given and state what was your connection with each case, and when that connection commenced and whether or not the case was one referred to in the contract between you and George B. Edmonds? A. In reply to that

question in connection with those cases I shall either have to refer to a memorandum I have made as a correct statement of the facts or go to the dockets of the individual cases. I will state I will govern myself by the memorandum which is absolutely truthful.

268 Mr. TUCKER: I object to the witness refreshing his recollection from any memorandum he has made or which he has unless it be shown when and under what circumstances such memorandum was made.

Q. Please state what memorandum you have and when you made it and from what material? A. I made it from the records of the Court of Claims and the files in each case.

Mr. TUCKER: I object to use of such memorandum for the purposes of refreshing the witness' memory. The best evidence of the contents of the files of the Court of Claims being the files of that court themselves and this objection is urged especially in view of the fact that two previous sessions of testimony in this case were taken at the Court of Claims and where all such files were readily procurable and which were used in the course of taking such testimony.

Whereupon after an examination of the memorandum produced by witness, counsel for the complainant refused to waive his objection to the witness testifying from said memorandum, and an adjournment was taken until the next day, Friday, May 18th, 1900, at the hour of 1 o'clock p. m. to meet at the Court of Claims.

MASON N. RICHARDSON, *Examiner.*

269 WASHINGTON, D. C., *May 18th, 1900—1 o'clock p. m.*

Met pursuant to adjournment at the clerk's office of the Court of Claims, to take further testimony for and on behalf of the defendant.

Present: Same parties.

Whereupon GILBERT MOYERS, a witness heretofore sworn, being recalled for further direct examination, testified as follows:

By Mr. BIRNEY:

Q. Have you now here present the original files of the Court of Claims in the cases to which you were interrogated on yesterday? A. I think they are all here.

Mr. TUCKER: Now, I want to put in a general objection here and do not want to have to repeat it. All questions propounded this witness, the object of which is to show the witness' connection with the claims set forth in Complainant's Exhibit One, are objected to

on the ground that they call for testimony in contravention of section 858 of the Revised Statutes of the United States under the circumstances of the present case and also because such testimony is irrelevant and immaterial to the issues between the parties to this cause; and all questions, the object of which is to show that the witness did not collect the money under the appropriations made to pay the claims described in Complainant's Exhibit No. One are

objected to on the ground that the answer of the defendant
270 expressly admits the collection by him of the money to pay such claims. It is understood that this general objection shall extend to all questions which have for their object the bringing out of testimony such as has been mentioned in this objection.

Q. I now hand you the files of the Court of Claims in the case of Susan Merrill, 1681, Congressional, in which it was testified an appropriation was made to pay the amount found due by the Court of Claims. Please state whether that case was one involved in any way in the contract between you and George B. Edmonds? A. That case I had in charge ten years before I ever knew Edmonds. The original attorneys in the case were Pruett and Francis. In 1877 they transferred their business to me while it was pending before the commissioner of claims. The original petition was filed before the commissioner in which the claimant Susan Merrill makes Pruett and Francis her attorneys. I find nothing in the papers showing any connection with this case by Mr. Edmonds. Another thing I filed a power of attorney in this case—

Mr. TUCKER: So much of the witness' answer as relates to his connection with this case prior to the partnership agreement of 1888 is objected to as immaterial for the reason that such partnership agreement fixes the rights and liabilities of the parties thereto. With respect to the claims to which it refers.

WITNESS (continuing): Furthermore I find among the papers a power of attorney executed to me on the 16th day of November, 1887, which is here produced for inspection of counsel.

271 Q. Your answer may indirectly answer my question, but not directly. Aside from the records and files which you have in your hands, at this moment, have you any knowledge whether this was or was not a case in which George B. Edmonds had any interest? A. I am positive it was not, because I paid over to Francis the fee in the case. This draft or warrant in this case under the act of 1891 was sent direct to the claimant. Mr. Francis had, I think, other cases at Hot Springs, Arkansas besides this case in Mississippi. I furnished his travelling expenses to go down there and see that the fees were collected as the drafts had already been issued. He went down there and came back and reported to me and he said he would like to have the use of the money—my fees—my interest as well as his—my interest being ten per cent. and

he gave me his note for the amount. That note was paid recently under the act of 1899 out of the Bigley case of Pennsylvania in which he was interested.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I now direct your attention to the case of T. W. Russell in which an award of \$772, was made and ask you if that is a case which was covered by your agreement with Edmonds and further to state what you know about that case and who prosecuted it? A. Certainly not, for the reason that that case had been prosecuted before the commissioners and was being prosecuted under the Bowman act by Mr. Dye, who was the attorney of record, and who received the fee. I was never recognized in connection with that case at all.

Q. Did you have any interest in the case or prosecute it in any way? A. No, sir.

Cross-examination.

By Mr. TUCKER:

Q. You stated that you never had any connection with this Russell case? A. No, with its prosecution as I recollect.

Q. How do you account for the entry of appearance of yourself and Edmonds in that case in the December term of the Court of Claims, 1888? A. My appearance was entered without my authority and without my knowledge as it was in a number of other cases by Mr. Edmonds himself or his representative.

Q. How do you account for the fact of your appearance being entered in that case on the Court of Claims docket? A. I have already answered that. My reply to the last question will answer that.

Q. Do you know anything of the power of attorney filed in that case by George D. Edmonds? A. No, sir, he must have filed it on his own responsibility, if there is one on file.

Q. How do you know that this Russell case was not included in your partnership agreement of 1888 with Edmonds? A. I know simply for this reason, I never got a schedule of the cases that he claims to have an interest in and do not know anything about 273 his schedule as I stated before.

Q. How do you know then which case that you and Edmonds were jointly interested in? A. Simply from the fact that certain cases on my record shows that he was interested in them.

Q. Independently of your record, how do you know which cases you and Mr. Edmonds were jointly interested in? A. I know only from my records.

By Mr. BIRNEY:

Q. Have you examined your records in this case of Thomas Russell? A. And the records in each individual case.

Q. Have you examined your records in this case of Thomas Russell to learn if Mr. Edmonds had any interest in it? A. Yes, sir. I have examined to the extent that I withdrew from its prosecution entirely, Mr. Edmonds having filed a power of attorney and appearance there to himself, individually and the power of attorney is here on *in* file with the papers in the case.

Q. Well, now, I call your attention to the case of J. L. Roberts, in which a finding was made for \$395, and ask what connection you had, as attorney for the claimant, in the prosecution of that case and whether that is one which is covered by your agreement with Edmonds? A. G. W. Z. Black was the attorney, in that case, as I recollect, before the commissioners and in securing its reference to the court under the Bowman act. He attended to its prosecution in the court and secured the award and received the fee.

274 Q. You were not interested in it? A. Not in the slightest.

Q. To repeat a part of my question, was that a case in which Mr. Edmonds was in any wise interested under your agreement with him? A. Not that I am aware of.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I now direct your attention to the case of George Show who got an -ward made of \$695, and ask you if that is a case covered by your agreement with Edmonds and what part, if any, you took in the prosecution? A. Black was the attorney in that case, as I recollect it, before the commissioners and before the court; had it referred down. I had no connection with its prosecution and received no fee.

Q. Have you any knowledge of any interest that George B. Edmonds had in that case? A. None whatever.

By Mr. TUCKER:

Q. It appears that in that case of Show against The United States, the appearance of yourself and Edmonds was entered of record in the Court of Claims on May 7th, 1888. How do you account for that? A. That was done by Mr. Edmonds without my knowledge or consent or approval.

275 Q. Did you not know at that time that Edmonds had a contract with the claimant dated, 1886? A. I did not. In fact I do not find that case on my dockets.

By Mr. BIRNEY:

Q. I direct your attention now to the case of C. Ubele, administrator, in which an award was made of \$585. and ask you what connection, if any, you had with the prosecution of that case and

whether that was a case which was covered by your agreement with George B. Edmonds? A. The only knowledge I have in regard to that matter is that Edmonds entered an appearance in the case and purported to turn the case over to me, but I found that the case was prosecuted before the commissioners of claims by Judge W. Penn Clark, and he was prosecuting it in the court and hence I could not take any active part in it. The briefs were all filed by Mr. Clark, as shown by the record of the case. He took the additional testimony that was necessary to be taken and he received the fee. I have never realized one cent from this case. I never expected anything.

By Mr. TUCKER:

Q. This case then was not included in your partnership agreement of 1888 with Edmonds? A. I had no partnership agreement with Mr. Edmonds. I had a special agreement—simply a special partnership agreement, but no general. This case may have been—it was, I think, one of the cases that he claims to have turned over to me. I am quite positive about that. In fact here is a power of attorney to George B. Edmonds executed on the 26th day of February 1886, among the court files. That power of attorney was not 276 filed by me in the court. It was filed, I suppose, by Mr. Edmonds.

Q. Well, so far as your connection with this Ubele case is concerned is it not the same as your connection with the case of Show against The United States in which latter case the record shows that an appearance of yourself and Edmonds was filed? A. No, it is not the same because in that case it never found a place on my dockets. This case did.

Q. That is the only distinction you make between the two? A. A very material distinction and possibly the only one.

By Mr. BIRNEY:

Q. I now direct your attention to the case of H. L. Cate, being the first in Exhibit One to complainant's bill, and in which it was claimed that an award was made of \$835. Place state if that case was or was not covered by your agreement with George B. Edmonds, and what part, if any, you took in the prosecution of it? A. I will state here once and for all that I never did know until, as I stated previously, what Mr. Edmonds claimed that he turned over to me. This Cate case was not his by any means. I find here a power of attorney executed to me on January 27th, 1888. I received the case direct from the claimant, on one of my blanks in the hand writing of one of my clerks. Furthermore I have to state that it was referred to court upon a blank filed by one of my clerks, which now I exhibit.

277 Q. At what time? A. It was referred to court when this petition was filed, February 4th, 1888. The endorsement on the back is in the hand writing of Thomas J. Healey, a clerk in my office.

Q. Did George B. Edmonds assume to have any interest in that case? A. Not the slightest in it. He was not instrumental in having it referred in any way as shown by the record.

By Mr. TUCKER:

Q. I show you a power of attorney from Henry T. Cate to George B. Edmonds in the last named case, dated the 25th day of February, 1886, and therefore antedating your power of attorney by two years, which power of attorney, at his death was found among his last effects. Do you still contend that Mr. Edmonds had no connection whatever with that case? A. Not so far as its prosecution was concerned or his turning it over to me. I know nothing about that power of attorney. It never came into my possession. I secured a power of attorney direct from the claimant.

Q. I also show you a contract in that case between the claimant and Mr. Edmonds dated the 25th of February, 1886, which it has been testified was found in his effects. Does that change your understanding of the matter? A. Not in the least. The contract never was transferred to me which would have been in all probability had he transferred the claim to me, that together with the power of attorney.

By Mr. BIRNEY:

278 Q. I now hand you the court files in the case of Richard Butler in which an award was made of \$122. Please state what connection, if any, you had with that case and whether that is or is not a case covered by your agreement with George B. Edmonds?

Mr. TUCKER: That question so directly calls for testimony relating to a transaction with the deceased that I renew and repeat the objection heretofore made, that it is incompetent under section 858 of the Revised Statutes.

A. This case seems to have been referred to the court on a petition that I think was prepared by Mr. Edmonds, but the claim was prosecuted by me at the instance of a firm of attorneys in Georgia, who claimed to represent the claimant and to be entitled to one-half of the fee. I cannot say when I remitted for their half of the fee. I received a one-half which is usual for an attorney located in Washington. Now, whether or not Mr. Edmonds received that claim from this firm, I am not able to say, but I know that he took no interest in the case. These local attorneys attended to the business at their end of the line and I attended to it at this end of the line and I divided the fees with them. Those are the facts.

Q. Did you have any knowledge of Mr. Edmonds' contention of connection with it? A. No, sir. It is a small case. The claim was allowed for \$122. I paid the Georgia firm \$25. which was about one-half of the fee.

Q. What was the name of that firm do you recollect? A. If I had the jacket here I could tell you. The local attorney's name was

279 John S. Schley. (After looking over the papers.) I think I remitted him by check. If I did I will make an exhibit to my deposition, properly marked, of the check.

By Mr. TUCKER:

Q. The appearance of Moyers and Edmonds seems to have been filed in the Court of Claims in the Butler case on March 27th, 1889. Do you know anything about that? A. No, I do not. Mr. Edmonds entered this appearance without my knowledge or approval as he did in a number of cases.

Q. It also appears from the Complainant's Exhibit No. 4 that Edmonds had a contract with this claimant dated in 1886. Do you know anything about that contract? A. I never had the benefit of any contract he took in that case.

Q. How much did you remit to the local attorney in this case? A. My memorandum shows \$25.

Q. When did you remit? A. I cannot give the date. The time of settlement I can give by referring to the books.

Q. Have you your books here? A. No, sir, I have not got my letter books here, nor my check book. I will see if I have it and make it an exhibit.

Q. Independently of your books you do not recollect the amount you sent to the local attorney or when you sent it or the means by which you sent it, whether by check or otherwise? A. I would not be certain. I would not rely upon memory when I paid a thing by check.

Mr. BIRNEY: Witness here states that he will look among 280 his papers and produce the check by which he paid the amount, if he can find it.

WITNESS: I will state that the draft may possibly have been sent there and they remitted me the fee. I am not certain about them taking the \$25. That was the amount that was paid though.

By Mr. BIRNEY:

Q. I now direct your attention to the case—the files and records in the case of Wilson Williams, administrator of the estate of Rodgerick Williams and ask you to state what connection you had with that case, when your connection commenced and whether that is a case covered by the agreement or in which Mr. Edmonds had any interest to your knowledge? A. To my knowledge Mr. Edmonds had no connection with this case. The original attorney in the case was Col. Richard McAllister, late of this city. The claim was presented to the commissioner by him. He was my Washington correspondent at that time and to him I sent a very large number of claims to be filed before the commissioners. Mr. Knutt fell heir to Col. McAllister's business, or at least was employed by the son of the colonel to represent his deceased father's interest in the prosecution of these claims. Mr. Knutt had this case referred to the Court of Claims as he did all of the McAllister cases.

Q. Have you the files before you there showing the reference? A. I have the files before me, but they do not show that fact, which I am cognizant of, being familiar with the business. He 281 filed an application to have all the McAllister cases referred down, some eight hundred or a thousand referred down at one time as the dockets here will show. I evidently had some connection with this case while it was pending before the commissioner of claims. Mr. Knutt withdrew in my favor and I pressed the prosecution of the claim and secured a finding which finally resulted in an appropriation.

Q. What interest had Mr. Edmonds, if any, in the case? A. None.

Mr. TUCKER: The last preceding questions and answers are objected to in so far as they purport to state what connection Mr. Edmonds had with this case, Mr. Edmonds being deceased and the testimony of the witness being incompetent under section 858 of the Revised Statutes.

WITNESS: A local attorney co-operated with me in the prosecution of this claim in the court and I paid him one-half of the fee realized. His name is Martin.

Q. And he lived where? A. He is dead now. He lived at Water Valley, Mississippi.

By Mr. TUCKER:

Q. When did you send Mr. Martin the money? A. I paid him a good deal of money, advanced him while the business was going on and then I paid his widow several hundred dollars since.

Q. When? A. In the last three or four months.

282 Q. By check? A. I think I paid her out of a fee down there. That is my recollection. A fee out of another case.

Q. Did you take a receipt from her? A. The attorney I think sent me a receipt.

Q. Will you produce that receipt if you have it? A. I will and make it an exhibit, if I can find it.

Mr. BIRNEY: How much was it?

A. \$200.

Mr. TUCKER: In this little claim Mr. Edmonds seems to have had a contract with the administrator of the claimant dated October 16th, 1886, for a fee of fifty per cent. What do you know about that?

A. I never saw the contract. He retained these things in his possession. I do not know anything about it.

Q. Your power of attorney in that case as appears from the records of the Court of Claims seems to be dated two years subsequent to Mr. Edmonds' power of attorney. Was not one of the reasons why you agreed with Mr. Edmonds to prosecute this case the fact that your powers of attorney conflicted? A. Not at all. I never knew of his power of attorney. Here is the record in the case.

Q. Did you have a contract for fees in this Williams case? A. I think I did.

- Q. Where is it? A. It is probably in my files in my office.
Q. Will you produce that if you can? A. I will unless I sent it down to the local attorney.

283 Q. If you sent it down to the local attorney would you not have a letter press copy of your letter of transmittal? A. Certainly.

- Q. Will you produce that? A. Yes, sir, I will look it up.

By Mr. BIRNEY:

Q. I now hand you the files in the case of S. Bagnell, administrator of Tenor Brayboy. No. 7448 and ask you what connection you had with that case, when your connection commenced and what part you took in its prosecution? A. That case I had in charge before I ever knew a man by the name of Edmonds, and before the commissioners filed it through Col. McAllister and here is the evidence before me and of the files that the testimony was taken before C. N. Wilson, who testified here yesterday. John D. Beaird, my clerk at Vicksburg, Mississippi, at that time when I had an office there, appeared to examine the witnesses. That was in 1873, in the month of May. I certainly prosecuted that claim from the filing of it before the commissioners in 1871 or '2 up to its final allowance, settlement and payment.

Q. What knowledge have you of any connection that George B. Edmonds had with it? A. He had none—no connection whatever, that is so far as the prosecution was concerned.

Mr. TUCKER: Objected to as incompetent under the statute.

284 A. It was my case all the time.

Q. Was that case covered in any way by the contract between you and Mr. Edmonds?

Mr. TUCKER: Same objection.

A. Clearly not.

By Mr. TUCKER:

Q. Where is your contract with the claimant in that case? A. It is on file, probably in my office.

Q. Will you produce that? A. If I can produce that I will. Furthermore I will state that the original petition before the commissioners of claims is in the handwriting of the clerk who had charge of my office in Vicksburg, Mississippi, at the time.

Q. Where is the power of attorney in that case? A. The power of attorney is in the petition that was filed before the commissioner of claims by Richard McAllister through me.

Q. Where is the power of attorney to prosecute the claim in the Court of Claims? A. My power of attorney was embraced—I filed it through him. I do not know whether I have a power of attorney on file. It is not necessary to file a power of attorney in the Court of Claims except where the attorney swears to the petition.

Q. Have you a power of attorney from the claimant in that case?

A. I cannot tell you.

285 Q. Will you produce it if you have it? A. Yes, sir.

Q. Mr. Edmonds seems to have had a contract for a fee in that case of fifty per cent. dated May 4th, 1886. Was not that one of the reasons which induced you to enter into this partnership agreement referred to in this case? A. Why certainly not. I had this case long before that. I never knew of that agreement until you exhibit- it just now.

By Mr. BIRNEY:

Q. I hand you now the files in the case of Ann Hunt, administratrix, in which it is said that an award was made of \$19,445, and ask you to state what connection you had with that case and when your connection commenced. A. That case I received direct from Mrs. Hunt.

Q. At what time? A. When I first commenced the prosecution of it before Congress and got it referred to the court. I was to pay all the expenses and had a contract for fifty per cent. Mrs. Hunt was at the time the administratrix of George F. Hunt, who was living when the property was taken and whose loyalty had to be proven.

Q. When did you begin its prosecution? A. I commenced the prosecution of that claim away back in 1887. I have now before me the docket entries in the case of George F. Hunt.

Mr. TUCKER: Do you refer to your dockets?

A. Yes, sir.

Mr. TUCKER: I object to the witness reading, or referring to his private entries upon the ground that they are not competent evidence as against the complainant in this case, who is the representative of the deceased George B. Edmonds, such entries being entries in the interest of the defendant.

A. These entries are narrative facts.

Q. Was that docket kept regularly by you in the course of your business? A. By my clerks.

Mr. TUCKER: Objected to.

A. I keep a diary of every day's transactions in my office, of all papers filed and where they are filed and those entries are transferred to the dockets of that case.

Mr. TUCKER: Objected to also on the ground that the books are not books of original entries.

A. I had the case as early as 1887. I secured its reference to the court in 1888.

Q. What interest, if any, did George B. Edmonds have in that case so far as you have any knowledge or information?

Mr. TUCKER: Objected to as incompetent under the statute.

A. Not one cent of it.

Q. Was it covered or included in your contract with him? A. Certainly not.

By Mr. TUCKER:

Q. When did your connection with this case begin? A. It commenced in 1887.

Q. Where is your contract with the complainant? A. I 287 certainly did have a contract with the administrator which is now—he is the son of George F. Hunt.

Q. Where is your power of attorney? A. The administratrix being dead.

Q. Where is your power of attorney in that case? A. The power of attorney may be in my office. It may be here on file in this case. I am looking for it now. I rarely file a power of attorney except where I myself swear to the petition. The rules require a power of attorney in cases where the attorney swears to a petition. In this case the administratrix swore to the petition.

Q. You say it is over in your office? A. I think it is. I will look it up, Mr. Tucker.

Q. Your connection with this case began in 1887? A. Yes, sir.

Q. Among Mr. Edmonds' effects appears to have been a contract with Mrs. Ann Hunt, dated June 1st, 1886, a letter addressed to Mr. Edmonds by H. E. Newton on behalf of Mrs. Hunt May 7th, 1886, and a letter addressed to Mr. Edmonds by H. E. Newton on behalf of Mrs. Hunt, June 1st, 1886, Mr. Newton stating in his letters that he was a connection of hers by marriage. Did you know anything of Mr. Edmonds' connection with this case at the date of your partnership agreement in 1888? A. Certainly not. Those papers I never heard of before until you produce them now.

Q. Mr. Edmonds' connection with this case, his contract and power of attorney seem to have antedated your connection with the case by at least one year. Was not that one of the reasons which induced you to make that partnership agreement in reference to this case?

288 Mr. BIRNEY: Objected to, there being no evidence of a power of attorney to George B. Edmonds.

Mr. TUCKER: Counsel for the complainant calls attention to the endorsement of which has been testified was in Mr. Edmonds' handwriting reading as follows: "June 5th, 1886, received—returned P/A T/A and C executed."

A. I have no evidence that Mr. Edmonds' contracts or power of attorney induced my employment in this case and certainly could not exercise any influence upon me because I never knew of anything of the kind. Mrs. Hunt sent this case to me as I can show by correspondence which I will produce and make exhibit to my deposition and there is nothing in the record to show that Mr. Edmonds had anything to do with it.

Q. Is there anything in the files of the Court of Claims in this

case to show that you ever entered a formal appearance as attorney of record? A. By reference to the docket I can tell you.

Q. Examine the original papers please? A. I do not know whether that will show, that may have been lost or mislaid. The docket is the best evidence of that. (After examination of the paper.) I find, however, upon careful examination of the papers that there is nothing whatever in the record to show Mr. Edmonds' connection with this case, directly or remotely.

Mr. BIRNEY:

Q. What is the practice of the Court of Claims as to entering appearance of an attorney, when he files the original petition?
289 A. That is an appearance.

Q. In such case is any written appearance entered? A. It is not necessary.

Q. I now hand you the files in the case of Mrs. Hattie E. Ladd, formerly, Hattie E. Black, No. 8349, in which it is said an award was made of \$985, and ask you to state what connection you had with that case and when your employment in it began? A. This claim was originally mine. I filed it through Col. Richard McAllister.

Q. In what year? A. Before the commissioner of claims in 1871-2. My docket shows that I prosecuted this claim through Richard McAllister.

Mr. TUCKER: The statement of the witness as to the contents of his docket is objected to as incompetent upon the ground above stated.

A. As attorney of record.

Q. Does the record before you, the official record of the Court of Claims show the same fact? A. It shows the application to take testimony made by Richard McAllister. That was in May 23rd, 1877, I think. The original petition seems to be missing from the files. I do not find it. There was a power of attorney among the papers filed by Edmonds. I cannot determine in whose handwriting the endorsement is on the said power of attorney, but my impression is it is in the handwriting of Mr. Edmonds.

The power of attorney is to him individually and it was executed, or it was signed and witnessed on the 2-th day of April, 1886.

Q. Is that a case which was covered by your contract or
290 agreement with Edmonds? A. No, sir.

Mr. TUCKER: I object to the testimony of the witness as incompetent under the statute.

A. No, because I had it before.

Q. Do you know of any interest which Mr. Edmonds had in it except from such information as you get from that power of attorney?

A. None at all. It was never turned over to me by him. The fact is it was my case all the time.

By Mr. TUCKER:

Q. Was there ever any agreements turned over to you in any of the Edmonds cases? A. I don't think I have any of the agreements of Mr. Edmonds at all. Perhaps I have and perhaps I have not. I cannot say unless I go through all my agreements.

Q. Why do you say that you had this Ladd case originally? A. Because I was attending to it before the commissioner of claims. I sent it on to Col. McAllister.

Q. Is there anything on the record to show that you appeared in the case before the commissioner? A. The record will show Mr. McAllister.

Q. And you claim to have inherited the case from McAllister? A. He inherited it from me. I gave it to him to prosecute.

Q. What is there in the record to show that you appeared before the commissioners? A. Nothing at all because I did not appear. I employed him as the local attorney here in Washington. I sent him hundreds of claims.
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Q. Have you any evidence to show his employment by you in this case? A. Nothing but the handwriting in the papers. The petition will show, but it cannot be found.

Q. Have you any contract with the claimant in the case? A. Yes, sir, I had a contract and settled upon the basis of that contract.

Q. Where is the contract? A. It is in my safe unless I surrendered it. I will state right here once and for all. It is not an unusual thing when I settle with a client to return the contract, and especially where there is an administrator, so that they can use that contract in settling up the affairs of the estate as a voucher. If I have this contract I will produce it.

Q. Will you produce any receipt for this contract if you have turned it over to the administrator or if you have got any letter of transmittal of the contract? A. Anything I have nearing upon the subject I will produce and make an exhibit to my deposition.

Q. Among Mr. Edmonds' effects appears to be a contract signed by Hattie E. Ladd, dated April 28th, 1886, and also a letter from her apparently written before the execution of that contract. Do you know anything about those? A. No, I never heard of them before.

By Mr. BIRNEY:

292 Q. Look now at the case of William R. Wellborn, No. 4196, Congressional, and state what is your connection with that case and when it commenced? A. That case was originally filed by George Taylor.

Q. In what year? A. Late of this city. Early in the 70's. He turned over his business to me. Just the date of the contract between him and I I cannot give, but I have the contract, I think, in my safe at my office. Edmonds seems to have had something to do

with this case, getting it referred down to the court, but the local attorneys were Foster and Butler, of Madison, Georgia. I paid them on the collection of this claim one-half of my fee as such local attorneys.

Q. Was that a case covered by your contract with George B. Edmonds?

Mr. TUCKER: Objected to as incompetent under the statute.

A. I do not see how it could be.

Q. From whom did you obtain it? A. Well, it would come under the general transfer from Taylor to me ordinarily, but the only attorneys I had any correspondence in regard to it was this firm down in Georgia that I have mentioned and here are numerous letters from them. The firm consists of Foster and Butler, Madison, Georgia. Here is a letter dated May 22nd, 1899.

Mr. TUCKER: Objected to as hearsay testimony.

WITNESS: The amount allowed is \$250. Of this amount \$100. went to Foster and Butler I suppose and \$50. to ourselves and \$100. to our client. That is my recollection. I will make an exhibit of the settlement of that case. I paid them one-half of the fee, whatever it was.

293 Mr. TUCKER: All statements of the witness with respect to the payment of the local attorneys in this case are objected to upon the ground that they are such payments that are in no wise binding upon the complainant, the administrator in this case.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I show you the files in the case of Josiah Gall, No. 6827, and ask you what was your connection with that case and when it commenced? A. This claim was referred to the court in February 1889, and there is nothing among the papers that I find showing Edmonds' connection with this case. Now do I find any power of attorney to myself. Permit me to correct that, I find in further referring to the papers that there is an appearance filed by Moyers and Edmonds in February 20th, 1889. That appearance is one of my blanks used for that purpose and my name is erased and Moyers and Edmonds, attorneys, written in by some one unknown to me. It is not in my hand writing neither is it in the hand writing of any of my clerks and I will examine my docket as to that case and see if there is anything on the docket to show the filing of that appearance and if so, it must have been filed through my office.

Mr. TUCKER: The entries of the dockets of the clerks are objected to as incompetent to in any wise bind or effect the complainant's rights in this case.

A. My dockets show the appearance was filed. It must have been

through my office by some one. My impression is I received that from Mr. Edmonds.

294 Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I show you now the official files in the case of John Ehs, No. 1156 and ask you to state what connection you had with that case and when that connection commenced? A. This is one of my original claims to the best of my recollection, before the Southern Claims Commission and I at all times looked after its prosecution independent and without regard to Mr. Edmonds. I never knew of his connection with the case to my recollection. I find that the original petition to the commissioner of claims was executed by the claimant on the 2nd day of March, 1872, making me the attorney of record. "Gilbert Moyers of Memphis, Tennessee, is hereby appointed my attorney." So I had the claim from that date until this date.

Q. Have you ever received any fee in the case? A. No, sir.

Q. Is that one of the cases covered in any way by the contract between you and George B. Edmonds? A. No, sir, it could not be because I had it before I knew Mr. Edmonds.

Mr. TUCKER: Objected to as incompetent under the statute.

By Mr. TUCKER:

Q. Where is your authority to prosecute this claim in the Court of Claims? A. The original power of attorney is sufficient until revoked.

295 Q. Where is your original power of attorney to prosecute the claim before the Southern Claims Commission? A. Right here in the petition. I just read it.

Q. Where is your fee agreement in this case? A. My fee agreement was lost or mislaid and I was compelled to make an affidavit as to its loss and what it provided for and also had to take affidavits as to what my services were reasonably worth.

Q. What was the date of the fee agreement? A. It was filed in the probate court down there. I cannot give the date of it. About the time I began the prosecution of the case.

Q. About the time you made the original petition in 1872 was that the date? A. Yes, sir.

Q. You stated you have not received the fee in the Ehs' case. Did you carry the case through the Treasury Department for settlement? A. The draft went direct to the claimant. Direct to the administrator and I relied upon his honesty and sent it to him. I am not certain now which. The administrator is Col. Hamilton, residing at Jackson, Mississippi. He is here in the city now, so I was advised yesterday.

Mr. TUCKER: The testimony of the witness with respect to his

failure—the statement of the witness that he has collected nothing from the Ehs case is objected to as in direct conflict with the admission in his answer that he collected the appropriation to pay this claim and at the hearing will move that such testimony be stricken out.

Mr. TUCKER: No cross examination.

296 By Mr. BIRNEY:

Q. I show you now the court files in the case of James Harding, administrator of J. H. Maury, deceased, and ask you to state what connection you had with that case, and when your employment commenced? A. There is nothing in the papers in this case showing Mr. Edmonds' connection with it, directly or otherwise. I had this claim referred to the court.

Q. When? State the date? A. 1890. It does not appear that I ever filed a power of attorney before the court.

Q. State when your connection with the case commenced? A. I do not find anything definite on that point, but it must have commenced prior to 1890 because I had the case referred down to the court.

Q. Can you state whether that case is one covered in any way by the contract between you and George B. Edmonds?

Mr. TUCKER: Objected to as incompetent under the statute.

A. It is not. I never knew Mr. Edmonds' connection with that case, that I can recall. There is nothing on my dockets to show that he had any claim to it or among the papers.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I show you now the court files in the case of N. K. Thornton in which an award of \$670. was said to have been made. When did your connection with that case commence, and who 297 prosecuted it as attorney? A. I find this claim was referred to the court by the committee on war claims in February 1889. I was not the attorney before the commissioner of claims nor did I have anything to do with the prosecution of the claim while there. This claim would seem to have come into my possession through Mr. Edmonds. I judge so more from the entries on my dockets than from any papers that appear in the case. There is no power of attorney to him nor anything among the papers that indicate that he had the case, except an appearance endorsed, I think, in his handwriting. I will not be positive as to that, in March, 1889. That is all.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I show you now the court files in the case of John R. Hornbaker, in which \$330. was said to have been awarded. Please state when your connection with that commenced and whether George B. Edmonds had any interest in the case so far as you know? A. This claim I received from Mr. Graham.

Q. Of what place? A. Harper's Ferry, Virginia. I find nothing in the papers to show any connection that Mr. Edmonds had with the case.

Q. When did your employment begin? A. My employment began in 1889, I think. That is my recollection.

Q. And you were employed by Mr. Graham you say? A. 298 Mr. Graham was the man who sent me the case. There is no power of attorney in their to me.

Q. What knowledge have you of any connection of George B. Edmonds with that claim?

Mr. TUCKER: Objected to as incompetent under the statute.

A. I have no knowledge of his connection with the case.

Q. Is it a case which was covered by your contract with him which is in evidence?

Mr. TUCKER: Same objection.

A. Nothing in the papers to indicate that I received the case from him of that he had anything to do with it.

Q. Aside from any papers, have you any knowledge that he had any connection with it? A. None whatever.

By Mr. TUCKER:

Q. Mr. Edmonds' connection with this claim seems, from the papers found among the effects, seems to have begun in February or March, 1886. Were you acquainted with that fact?

Mr. BIRNEY: I object to the question as it involves a statement which is not proven.

A. No, sir.

Q. Your appearance seems to have been first entered in the Hornbaker case September 3rd, 1890. Is that correct? A. I suppose it is.

Q. Have you your contract with the claimant in that case? A. I haven't any contract with him at all. I can look to see if there is one.

299 Q. And will you produce it? A. I will if I have it.

Q. And also the power of attorney? A. I will make a memorandum of it.

By Mr. BIRNEY:

Q. I show you now the papers in the court—the court files in the case of M. C. Baylor, No. 3894, and ask you to look at that and state

who was the attorney of record in that case from the beginning to the end and whether you have any knowledge of the case, whether you had anything to do with it?

Mr. TUCKER: Objected to as the witness has admitted that by his answer to have collected the fee.

A. G. W. Z. Black, of this city, seems to have been the attorney all the way through, except I notice here a power of attorney filed by Mr. Edmonds on November 7th, 1888, signed March 11, 1886. Aside from that all the papers indicate that Mr. Black was the attorney all the way through.

Q. Did you take any part in the prosecution of that case at any time? A. None whatever.

Q. Did you collect any part of the appropriation? A. No, sir.

Q. Or get any part of the fee? A. No, sir; Mr. Black was the attorney before the commissioner of claims.

Q. In 1872? A. Yes, sir, in 1872.

300 Q. Did you have anything or ever know anything about that case before the present? A. No, sir. I do not see that I had any connection with it whatever. I have not it on my dockets.

Q. Did you have any knowledge of it except from these files now? A. No, sir.

Mr. TUCKER: No cross examination.

By Mr. BIRNEY:

Q. I show you now files court files in the case of Joel Johnson, administrator of R. W. Johnson, erroneously stated in Complainant's Exhibit No. One under the name of R. M. Johnson, and ask you what has been your connection with that case and when your connection commenced and under what circumstances? A. I filed the appearance in this case in the Court of Claims in June 1890. The case was referred to the court in February 1889.

Q. Did you thereafter prosecute it? A. Yes, sir, steadily.

Q. What connection, if any, had George B. Edmonds to that case of your knowledge? A. I do not see anything in the papers disclosing his connection to the case.

Q. Have you any knowledge that he had any connection with it? A. I cannot recollect any now.

Q. Can you say whether that was a case covered in your agreement with him or not?

Mr. TUCKER: Objected to as incompetent under the statute.

301 A. I think not. I filed an appearance in the case on June 25th, 1890. I do not see his name connected with the case in any way. Neither does my docket show that he had any connection with the case.

Mr. TUCKER: The last statement of this witness objected to as incompetent.

A. I am prosecuting that claim in connection with J. W. Lawrence, a lawyer at Fayetteville, North Carolina, on an agreement to divide the fees equally with him which will indicate that I must have received the case from him.

Q. Can you now state whether that is a fact, that you received the case from him? A. That is my impression. I will not state the fact without seeing the papers. That is all I know about it, what the papers show and my docket.

By Mr. TUCKER:

Q. Where is the contract with the claimant in that case? A. If I ever had a contract it is on file with my other contracts in my safe.

Q. Will you produce it? A. I will look it up and produce it.

Q. If you have a power of attorney in the case will you produce that? A. There don't seem to be any power of attorney in the case. There never has been any petition executed before the Court of Claims, I don't think. I will look to be positive about that. (After looking over the papers) There is no petition—no petition has ever been filed in the court. This case has not progressed to a hearing on the jurisdictional question of loyalty.

302 Mr. BIRNEY: Then it has not been decided by the Court of Claims?

A. No, sir.

Mr. BIRNEY: And consequently you have received no fee and collected no appropriation?

A. No, sir, the case is not settled.

By Mr. BIRNEY:

Q. You have stated that you have been engaged in the prosecution of claims for a long number of years. Can you approximate the number of claims that you have had under prosecution through the Court of Claims?

Mr. TUCKER: Objected to as immaterial and irrelevant.

A. I can only make an approximate estimate, and that might be quite uncertain. Possibly three or four thousand.

Q. There has been offered in evidence here the record of a verdict of a jury upon the inquisition in the case of George B. Edmonds, charging him with being of unsound mind. Please state what knowledge, if any, you had of that proceeding.

Mr. TUCKER: Objected to as incompetent and immaterial, the verdict of the jury in question being binding upon the witness, whether he had actual knowledge of the same or not.

A. The first intimation I had of anything of the kind was during the progress of this cause.

Q. Did you have any knowledge or information of it in 1891?

Mr. TUCKER: Same objection.

303 A. I certainly did not. I regarded Mr. Edmonds in my dealings with him as of sound mind as he was when he made the contract of 1888. I could see no difference perceptibly.

Mr. TUCKER: The last answer objected to as incompetent under the statute.

Q. Were you ever informed by any person that he was in any wise unfit to prosecute business?

Mr. TUCKER: Objected to.

A. No, sir; nor did I suspect anything of the kind.

Mr. TUCKER: Objected to as calling for hearsay testimony.

Mr. TUCKER: Notice is given that at the hearing it will be moved to strike out the whole of the deposition of this witness relating to his professional connection with the cases or claims referred to in his deposition and relating to his association or connection with George B. Edmonds, deceased, in the prosecution of such cases or the fact that he was not so connected with Mr. Edmonds in the prosecution of such cases upon the ground that such testimony is in contravention of section 858 of the Revised Statutes and is also wholly immaterial to the issues between the parties to this cause.

GILBERT MOYERS.

Subscribed and sworn to before me this 18 day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

304 Hereupon the further taking of testimony in this cause was adjourned until Monday May 21st, 1900, at the hour of 2 o'clock p. m.

MASON N. RICHARDSON, *Examiner.*

WASHINGTON, D. C., *May 21st, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Messrs. Birney and Woodard, Mertz building, to take further testimony for and on behalf of the defendant.

Present: Same parties.

Whereupon G. W. Z. BLACK, a witness of lawful age being first duly sworn according to law for and on behalf of the defendant, testified as follows:

By Mr. BIRNEY:

Q. Please state your profession and place of residence? A. Lawyer. My place of residence—city residence is 1425 New York avenue.

Q. Have you in your practice of the law conducted cases before the Court of Claims? A. I have.

Q. Has that been your principal line of business? A. For twenty odd years, yes, sir.

Q. I now show you the files of the Court of Claims in the case of Moses C. Baylor, against The United States in which you appear from the files to have been the attorney and ask you what your connection with that case was, who collected the appropriation and who received the fee?

Mr. TUCKER: Objected to on the ground that the defendant by his answer has stated that he collected the money appropriated to pay this claim and received the fee paid by the claimant therein.

A. I was attorney for the claimant and prosecuted this claim and received the fees for the same.

Q. Did you know of any connection that Gilbert Moyers had with the case?

Mr. TUCKER: Same objection.

A. I do not know and I am not aware that anybody had any connection with the case except myself.

Q. I now show you the files of the Court of Claims in the case of Joseph L. Roberts against The United States in which you also appear to have been the attorney and ask you what was your connection with that case, who collected the appropriation and received the fees?

Mr. TUCKER: Same objection.

A. I was the attorney and prosecuted the claim and received the fees.

Q. You collected the appropriation? A. Yes, sir.

Q. Did Gilbert Moyers have any connection with the case that you are aware of? A. Not to my knowledge.

Q. He did not share in the fee? A. He did not.

Q. I now show you the files of the Court of Claims in the case of George Show against The United States, No. 3898, Congressional, in which you appear to have been the attorney and ask you what was your connection with that case, who collected the appropriation and who received the fee?

Mr. TUCKER: Same objection.

A. I was the attorney and collected the appropriation as you call¹ it and received the fees in the case.

Q. Did Gilbert Moyers have anything to do with that case to your knowledge? A. Not to my knowledge.

Q. Did he receive any part of the fees? A. Not to my knowledge he did not.

Q. What knowledge had you, if any, of the connection, if there

was any connection, of George B. Edmonds with any one of the cases I referred to?

Mr. TUCKER: Same objection.

A. I was not aware that he had any connection with any of those cases.

Mr. TUCKER: For the reasons above stated it will be moved to strike out the whole of the deposition of this witness.

GILBERT MOYERS, a witness heretofore sworn for and on behalf of himself, being recalled, testified as follows:

By Mr. BIRNEY:

Q. At your last examination you were requested by Mr. Tucker to look among your files and to produce any correspondence or powers of attorney or agreements which you might have in certain 307 cases which he mentioned. Among them was the case of S. Bagnell, administrator of Tenor Brayboy. Have you here present any of your correspondence in that case? A. I have.

(Witness here produces two letters.)

Q. Can you state upon looking at those papers any endorsements which they bear. What became of the fee agreement which you had? A. I can. The endorsement on one of the papers. The endorsement on the letter of April 8th, 1892, is to the following effect. "Send the agreement to Bagnell, administrator." I did this as I did in almost every case in order that the administrator might use the fee agreement in a settlement of his accounts as such administrator.

Mr. BIRNEY: The letters are here produced and tendered for the inspection of counsel on the other side, the same being dated—

A. Letter dated April 8th, 1892, the endorsement being settled at Washington, April 8th, 1899. The letter of 1892 I offer in evidence to show that my correspondence was direct to Mr. Bagnell and he employed me. Also I make exhibit to my deposition of one from Mr. Bagnell dated June 2nd, 1892.

Q. You were also asked concerning the case of Wilson Williams, administrator of Roderick Williams, deceased. Please state you now have here a letter from Wilson Williams prior to his death? A. I hold in my hands a letter from Wilson Williams to date August 2nd, 1888, in which he writes me "I send you the power of attorney."

Mr. BIRNEY: The letters are offered in evidence as Defendant's Exhibit No.—

308 Q. Did you have a local attorney at Water Valley, Mississippi in the Wilson Williams case and if so who was he and

produce any correspondence that you may have had with him? A. I did and his name was H. K. Martin. He had been a judge in one of the courts here. He was a prominent lawyer. To verify this fact I make an exhibit of a letter from him of October 29th, 1894.

Mr. BIRNEY: That letter is offered in evidence as Exhibit No. —.

Q. You were asked the other day for the fee agreement in that case. Please state now what you did with the fee agreement and produce any contract or memorandum or letter you may have on the subject? A. I hold in my hand a letter written by me and addressed to W. B. Porter, Esq., cashier of the Merchants and Farmers Bank of Oxford, Mississippi, in which I enclosed my fee agreement.

Mr. BIRNEY: That letter is offered in evidence as Exhibit No. —.

Q. Is this the original letter which you sent him? A. That is the original letter. He sent it back to me in due course of mail.

Q. You were also asked concerning the case of J. R. Hornbaker. Have you here any original letters from Mr. Hornbaker? A. I have one addressed to me on May 19th, 1894.

Mr. BIRNEY: Here produced for inspection of counsel and offered as an Exhibit No. —.

Q. Please state what opportunities for examination of your 309 files you have had since the last session and whether you have produced all the correspondence that you had with these people? A. I have had very little opportunity as my engagements in the Court of Claims were such and in regard to my interest in the country I could devote very little time to it consequently the search is not complete by any means.

Mr. TUCKER: The admission in evidence of letters and papers which have been offered at this session objection is made on the ground that they are wholly immaterial to the issues in this case and in no wise binding upon the complainant or the decedent George B. Edmonds.

Mr. BIRNEY: Counsel for the defendant states that the papers produced were so produced at the call of counsel for complainant as will appear from the record.

Mr. TUCKER: Solicitor for the complainant replies that not one of the papers produced was called for by the solicitor for the complainant.

Mr. TUCKER: No cross examination on this subject.

By Mr. BIRNEY:

Q. Col. Moyers in the examination of complainant in this case he testified to having had a conversation or conversations with you in 1899, but denies that he said to you that he did not claim that you were indebted in any way to him on account of James B. Edmonds,

but would like to get enough money to make him good in his claim of indebtedness from Edmonds to him. Please state what conversation, if any, you had with Mr. Cummings on that line?

Mr. TUCKER: Objected to as an attempt to contradict the testimony of the complainant upon a wholly immaterial matter.

310 Q. In stating what he did in that connection, he swore to what is absolutely false. His statement to me is substantially what is embodied in that question, and further stating that he knew I did all the work in all these cases and paid out all the money and was entitled to the fees.

Q. What, if anything, did he tell you about any indebtedness from Edmonds to him?

Mr. TUCKER: Objected to for the same reason and also because any statements made by the administrator can in no wise affect the rights of the estate of which he is the representative.

Q. He stated to me that he had made certain advances as the guardian, and that is the first intimation I had that he was the guardian of Edmonds, amounting to a few hundred dollars, and he wanted, if I could, out of the proceeds of this business—the Edmonds business, to refund that amount.

Q. The witness Butterfield, when on the stand testified (page 23) that at a conversation he had with you at which he showed you the duplicate of the contract between you and Edmonds that the list or schedule attached to it, you stated that the schedule was a forgery. Please state if you stated that and what you did say? A. I did not use the word forgery. I said it was a fraud.

Q. Was that the first time you had seen that list? A. The first time. I did not examine it then. I did not examine it then.

311 Cross examination.

By Mr. TUCKER:

Q. In your conversation with the complainant, Mr. Cummings, which you have just referred to, what was your reply to his alleged statement that he wanted to collect sufficient money to pay himself for advances made to Edmonds? A. I stated I would see about it.

Q. Did you say anything else? A. Nothing that I can remember. I am very positive I said nothing else.

Q. Why did you not tell him that you owned the Edmonds cases? A. Simply because I did not deem it necessary and I had not looked then to the papers in the case and my accounts.

Q. Is there anything in your accounts to show the purchase by you from Edmonds? A. There is an account showing that I had paid him \$500.

Q. Where is that account? A. That is in my diary.

Q. Where is your diary? A. At my office. The diary will show

every dollar I paid him right along with the exception of some small amounts I paid him on the street.

Q. Why in your correspondence with Mr. Butterfield relating to these Edmonds claims did you never state or intimate that you 312 had bought Edmonds' interest in the claims? A. The reason is this, Mr. Butterfield was very persistent. I was suffering at the time from an ailment that resulted from my service in the army, and I was really unfit to transact any business and I told this man Butterfield that at the time repeatedly, but every few days he would call at my office. This was after I refused to pay a thousand dollars that he had loaned—Mr. George P. Davis. I refused to assume that indebtedness for the reason that I was not legally obligated. From that time on he was constantly pressing this matter of Cummings—this Edmonds matter and all that I wrote or said to him was simply for delay in order that I might have time to investigate my books and facts, etc.

Q. You knew at that time that the Edmonds estate had not interest in these claims? A. I knew. I was positive of it.

Q. Why did you give— A. All I stated to Mr. Butterfield—I did not owe Mr. Edmonds one cent.

Q. Did you ever state to Mr. Butterfield that you had bought out Edmonds' interest in these claims in the summer of 1892 for \$500? A. No, I did not because I did not buy it out for \$500.

Q. Did you ever state that you bought it out for any sum? A. I stated that I did not know how the matter stood until I looked into it, and I was sick at the time.

Q. How long did your illness last? A. Several weeks and by the advice of my physician I went to the Hot Springs, Arkansas.

313 Q. When did Mr. Butterfield or Mr. Cummings first see you about this matter? A. It was very soon after this complaint about my not recognizing my indebtedness in the case referred to by Mr. Butterfield.

Q. How long was it after the act of March 3, 1899? A. Oh, several weeks, several weeks.

Q. Were you ill from that time until the time of the filing of this bill? A. Not all the time. Not all the time.

Q. On September 16th, 1899— A. Not all the time. That is I was suffering all the time, but not to the same degree. I am not well now. I never expect to be a well man. Sometimes I suffer more than others.

Q. Why did you not at any time between the 3rd of March 1899, and September 16th, 1899, at the time of the filing of this bill, in your correspondence with Mr. Butterfield or in your correspondence with me or Mr. Cummings, tell them or either of them that you had bought out Edmonds' interest? A. Simply because I did not recognize that they had any business in the transaction. I will state in that connection in the first place Mr. Butterfield contended that Mr. Cummings had bought this interest from Mr. Edmonds in his lifetime. That I can prove outside of myself. He stated that in my office,

on more than one occasion and brought up an assignment and showed it to me. I told him that at the time that assignment was made—

314 it was about 1894 or 1895—that I supposed Mr. Edmonds was not capable of transacting business at that date. Then

he came with an assignment from Edmonds' brother representing that he was the sole heir—an assignment of all his personal property. I told him I could not recognize that, and could not consult with him, and I did not want anything to do with him in the way of a settlement, that there would have to be an administrator. Then they procured letters of administration, I was informed afterwards, and then this suit was brought. That is a clean cut tale of the thing just as it happened.

Q. Do I understand you to say that Mr. Butterfield claimed that Mr. Cummings had an assignment from George B. Edmonds dated back in 1895? A. I won't be positive about the date, but I know it was dated subsequent to my last payment to Edmonds and at a date, as I understand, covering the period of what is termed as his insanity.

Q. Don't you know that Mr. Cummings was committee in lunacy of George B. Edmonds and could not make such an assignment?

A. Never at all. I never knew that until this transaction came up.

Q. You have made all the explanation you can of why you mentioned to Mr. Butterfield or to Mr. Cummings the fact of your having—the alleged fact of your having bought out Edmonds' interest. A. I have made all the explanation I think was necessary under the circumstances and conditions.

Q. Mr. Butterfield showed you the schedule attached to the partnership agreement of 1888 did he not? A. He brought a contract with a long schedule to it I did not examine it because I pronounced it as a fraud.

315 Q. Why did you pronounce it a fraud if you did not examine it? A. Because of its volume. It was immense. It covered a number of pages of written matter and I knew that Mr. Edmonds never turned over anything like that number of cases—nothing like it, hence I pronounced it a fraud.

Q. Where is this schedule that was attached to the original partnership agreement? A. There was never any schedule to it—attached to the original agreement.

Q. Why did you state in your sworn answer to the bill of complaint that there was such a schedule? A. I did not make any such statement. I made a statement that there was no schedule attached to the contract—the duplicate given to me, and which is now on file as exhibit in this case.

Q. Where is the schedule that is referred to in this partnership agreement? A. None was ever furnished me.

Q. I read from the third paragraph of your answer to the bill of complaint in this case: "This defendant says that upon the best of his recollection and belief the only cases named in said Exhibit No. One, which were among the cases specified in this schedule attached

to said agreement of February, 1888, were the cases in which J. C. Tappan, administrator and S. Fitzhugh, administrator, for the claimants, respectively. Q. Where is that schedule referred to in that answer? A. I refer I suppose to the schedule that is made an exhibit to the bill of complaint in this case.

Q. That is the only explanation you have to make, in this
316 statement? A. Because I never had any schedule.

Re-direct-examination.

By Mr. BIRNEY:

Q. Upon the taking of the testimony for the complainant in this cause the schedule referred to as attached to the duplicate of the contract produced by complainant were shown you. Please state if you can explain now that schedule was made by and from what?

Mr. TUCKER: Objected to if by the question the opinion of the witness is sought, such opinion being clearly incompetent.

A. Mr. Edmonds was on very intimate terms with a gentleman by the name of Beardsley in my office and through Beardsley he had access to my books—my dockets and especially to the commissioner of claims index—index of the claims—consolidated index of the commissioner of claims of claims disallowed and I find that the schedule is made largely from my dockets and from the index referred to. I had occasion to discharge Mr. Beardsley on account of this practice, from my employment.

Q. What is that index of claims to which you have referred in your last answer? A. The same index that Mr. Healy, a witness for the defence in this case, produced here on his examination. It is a consolidated index of claims rejected by the commissioner of claims, giving the numbers, names, States, amounts, etc.

Q. Of claims rejected by the Southern Claims Commission? A. Yes, sir.

317 Q. Is it in print? A. It is in print. A public document, but the publication was very limited and there are few attorneys who have it.

Q. Did you have it in your office? A. Yes, sir.

Mr. TUCKER: All statements made by this witness which are in the nature of charges against George B. Edmonds are objected to as incompetent under the statute, the person against whom such charges are made being dead and unable to refute them. At the hearing it will be moved to strike all such statements out.

Re-cross examination.

By Mr. TUCKER:

Q. Mr. Moyers, when do you claim that Mr. Edmonds acquired this information from your record and files? A. During 1886, 1887 and 1888.

Q. Don't you know that in 1886 Mr. Edmonds sent out a large number of circulars to claimants whose claims had been rejected by the Southern Claims Commission and in this way acquitted these claims which he afterwards turned over to you? A. I do not know it of my personal knowledge. I knew he was around my office daily and nightly.

Q. When? A. In 1866-'7 and '8.

Q. When? A. 1886-'7 and '8.

Q. And did you then believe that he had abstracted this information from your files and records? A. I believed so some time in 1888 and consequently discharged Mr. Beardsley.

318 Q. And notwithstanding this belief you made you did in 1888 from this partnership agreement—made this partnership agreement with Mr. Edmonds? A. I think that was made before.

Q. Before 1888? A. Oh, no, sir, during 1888. That was made early in 1888. It was not a partnership agreement. It was an employment of me to attend to certain business for him in the Court of Claims in regard to certain cases. You might style it a limited partnership. There was no general partnership.

Q. And notwithstanding this belief that you entertained in 1888, you claim that you paid Mr. Edmonds from that date up to the summer of 1892 about \$1500. for his interest in the claims which he had fraudulently obtained by access to your files? Is that right? A. I have not stated that all the claims in the schedule are fraudulent. That is an implication of your own—an inference rather. I paid him for what I considered were claims that he had honestly obtained and transferred to me as attorney of record.

Q. Will you be kind enough to take this Exhibit No. One attached to the bill of complaint in this case and point out the cases which he obtained through access to your files (handing witness Exhibit No. 1). A. I could not do that. I have made a definite answer in regard to all these cases. I have made already a definite answer in regard to each case specifically as shown by the records of the court and my own records. It is only a repetition of what I have already stated.

GILBERT MOYERS.

319 Subscribed and sworn to before me this 23rd. day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

320

EXHIBIT M. N. R. No. 1.

73373 Gilbert Moyers & Geo. B. Edmonds, agrees to prosecute
4740 the following cases and divided the fees set opposite of
25650 each case equally between them.

The pin used to fasten this sheet to the one next below was removed by me, and the two sheets pasted together. Mason N. Richardson, examiner.

Mr. Moyers will be at all future expenses in every respect in prosecuting every case, and no future expenses shall be required of said Edmonds. But the expenses which said Edmonds has been to will be required from said Moyers.

The powers of attorney which was issued to said Edmonds shall be retained by him, and he shall have the power to collect all

sums that shall be awarded on these cases or any one of them.

Said Moyers shall be to all the trouble, expenses, clerk hire, office room &c., for collecting those claims, and said Edmonds shall only do what he feels disposed to do.

In case said Moyers does not deem it advisable to prosecute any case, he shall surrender — or to said Edmonds, and in any such case no expense shall be required from said Moyers.

321

Agreement.

Know all men by these presents, in duplicate, that the undersigned, attorneys of Washington, D. C., are special partners in the prosecution of the cases named in the schedule hereto attached now pending before the United States Court of Claims and the Congress of the United States, the fee agreed to be paid by the client in each case being the per centum of whatever may be recovered as is stated herein, and the agreement between the undersigned being that each shall have half of said fees and that each shall pay one-half of the expense incident to the prosecution of same, which expense is not to exceed $2\frac{1}{2}$ % of the amount that may be allowed upon said claims.

And it is hereby agreed and understood that the said Gilbert Moyers shall represent and be associated with me in the prosecution of said claims before the Court of Claims and the Congress of the United States as joint attorney of record.

It is hereby understood and agreed that the undersigned Gilbert Moyers, is to advance the expenses incident to the prosecution of said claims.

Witness our hands this 6 day of February, 1888.

GILBERT MOYERS.
GEO. B. EDMONDS.

322

EXHIBIT M. N. R. 2.

WASHINGTON, D. C., Dec. 5, 1891. No. 10.

N. M. B.

The National Metropolitan Bank of Washington.

Pay to George B. Edmonds or order \$20.00 twenty $\frac{0}{100}$ dollars

Paid Dec. 5 1891

GILBERT MOYERS.

EXHIBIT M. N. R. 3.

WASHINGTON, D. C., Dec. 10, 1891. No. 21.

N. M. B.

The National Metropolitan Bank of Washington.

Pay to George B. Edmonds, or order \$30.00 thirty $\frac{0}{100}$ dollars

Paid Dec. 10 1891

GILBERT MOYERS

EXHIBIT M. N. R. 4.

WASHINGTON, D. C., Jan'y 16, 1892. No. 119.

N. M. B.

The National Metropolitan Bank of Washington.

Pay to George —. Edmonds or order \$50.00 fifty $\frac{0}{100}$ dollars

Paid Jan. 16 1892

GILBERT MOYERS.

323

EXHIBIT M. N. R. No. —.

ROCKY SPRING, MISS., April 8, 1892.

Gilbert Moyers, Esq., Washington, D. C.

DEAR SIR: Enclosed you will find papers in Tenor Brobay claim I have been appointed administrator of the estate. Please let me know what additional evidence you wish in the claim, and on what points.

Yrs. &-

L. BAGNELL.

324

EXHIBIT M. N. R. No. —.

"Milford mills." J. R. Hornbaker, manufacturer of all grades flour, meal, feed, and all kinds of dressed lumber.

Highest price paid for grain.

BRISTOE, VA., May 19th, 1894.

Mr. Gilbert Moyers, Washington, D. C.

DEAR SIR: In reply to yours of May 15th will say that the witnesses to the proof that I owned the property and that it was taken for the use of the army, are getting to be quite old people and would rather not go down to Washington unless it was really necessary, then they would go. Mr. Elias Goode and wife and their son Adam Goode saw the army take the flour out of my building and take it to the camp.

William Lipscomb is a notary of Manassas, Va.

I would have gotten my pay in the first place had it not been for an enemy who reported against me and did not want me to get my just pay.

I have on hand at this time in my mill about 300 bbls. of flour and they had just as well say that this flour was not mine as to say the flour the army took was not.

Yours truly,

J. R. HORNBAKER.

325

EXHIBIT M. N. R. No. —.

WATER VALLEY, Miss., Oct. 29 / 94.

Gilbert Moyers, Esq.

DEAR SIR: I took the testimony in the Roderick Williams case at Pine Flat Church on the 27th on time.

Mrs. Williams testified that she was present and saw the property taken, and I pressed up the testimony as far as possible, to corroborate our statement. You will see that Murray says he knows the property was there when the army went there, and was gone in a few minutes after they left. That he was in sight and saw them there and went there as soon as they left.

Markett says Williams had the property and he was there the next day, and it was gone, and saw the fresh sign where the corn & fodder was taken, that it was found to be taken by the Federals that there was no other soldiers in the country. Judge says they hauled corn & fodder and drove stock, hogs and sheep to his house from the direction of Williams' place, and left some sows and pigs there which belonged to Williams, which shows they drove stock from his place, with this proof I think you can sustain the old ladies' testimony beyond doubt.

I will take some strong affidavits in the Taliaferro case tomorrow. This is an outrage, he was a Union man sure. I think the testimony showing that Sugg. and other Confederate soldiers visited his house is what done the devilment. His daughters were first class, and would naturally be visited by young men, while Taliaferro

I must not forget to thank you for your verry complimentary reeffrence to my ability to take testimony.

I have written our Congressman Col. Money, and Col. C. B. Howney, my special friend, to urge Col. Dodge to file his brief in the Young case and others. I herewith return your brief in Williams case.

Yours truly,

H. K. MARTIN.

327

Testimony on Behalf of Complainant in Re-buttal.

Filed May 22, 1900.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, }
vs. } Equity. No. 20802.
GILBERT MOYERS.

Be it remembered that at an examination of witnesses begun and held pursuant to agreement on the 3rd day of May, 1900, at which said examination there were present Charles Cowles Tucker, Esq., solicitor for the complainant, and Arthur A. Birney, Esq., solicitor for the defendant, personally appeared before me, J. Arthur Lynam, an examiner in chancery of said court, the within named witnesses, who being called for and on behalf of the complainant in rebuttal, and being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in the above entitled cause, did depose and say what is hereinafter set out as stated by them.

J. ARTHUR LYNHAM, *Examiner.*

328 In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

THURSDAY, May 3rd, 1900—2 o'clock p. m.

Met, pursuant to agreement, to take testimony in rebuttal on the part of the complainant.

Present: Charles Cowles Tucker, Esq., of solicitors for the complainant, and Arthur A. Birney, Esq., solicitor for the defendant.

Whereupon—

Mr. TUCKER: The solicitor for the complainant here offers in evidence the records, papers and proceedings in the supreme court of the District of Columbia in the matter of George B. Edmonds, alleged lunatic, known as equity cause No. 12926, wherein said George B. Edmonds was, by the findings of the marshal's jury dated January 24th, 1891, declared to be suffering with chronic mania, and to be a lunatic of unsound mind, so that he had not capacity sufficient for the government of his property; and wherein it was further found by said jury that said Edmonds had been such lunatic since January 1st, 1891; and wherein Horace S. Cummings was by said court, on January 31st, 1891, appointed committee of the person and estate of said lunatic. Said records, papers and proceedings to be submitted and read at the hearing.

329 Mr. BIRNEY: That is objected to as incompetent and irrelevant, and not proper in rebuttal.

Thereupon EDWARD A. BALLOCH, M. D., a witness of competent age, produced on the part of the complainant in rebuttal, and being first duly sworn, was examined and testified as follows:

Direct-examination.

By Mr. TUCKER:

Q. You have given your full name, Doctor to the examiner? A. Yes, sir.

Q. How long have you been a practicing physician in Washington? A. Twenty-one years.

Q. Were you acquainted with the late George B. Edmonds in this city? A. I was.

Q. When and under what circumstances did you become acquainted with him? A. I had seen him on several occasions in the office of W. M. Goodlove, perhaps a dozen times in all.

Q. Without my asking you any question, when? I said when and under what circumstances. A. I can't fix the year, but it must have been somewhere between 1890 or 1894, as near as I can place it. I can't state definitely.

330 Q. Did you testify in the lunacy proceedings in the supreme court of the District of Columbia in which George B. Edmonds was found to be a lunatic on January 24, 1891?

Mr. BIRNEY: I object to that as incompetent.

A. I did.

Q. How long before that proceeding had you known Edmonds, approximately? A. Two months.

Q. What, if any, examination did you make of Edmonds' mental condition before testifying in that proceeding?

NOTE.—It is agreed that the general objection already made shall apply to all evidence in this case on the lines indicated by the questions already propounded.

A. The special examination for that purpose was made in connection with Doctor Caldwell, but I was familiar with his condition before that?

Q. And is the result of your acquaintance with him and examinations made of him? A. Yes.

Q. Now, from your knowledge of Mr. Edmonds, at that time, and as a result of the examinations you had made, and then made, what is your opinion of his mental condition at the time of those proceedings, in 1891? A. My opinion is that he was of unsound mind, suffering from chronic mania, incompetent to attend to business, or anything of that nature.

Q. What was the degree of his mental alienation? A. I should class it at that time as slight, as not severe enough to warrant his being taken care of in a hospital, but of sufficient degree to prevent him from attending to any business affairs.

331 Q. I was about to ask whether it, in your opinion, incapacitated him from attending to his business affairs, and to make contracts understandingly? A. In my judgment it would.

Q. Did you know anything of him after that time—after the date of these proceedings? A. I don't remember anything about him after that. I used to see him on the street. That was about all.

Q. What if any, improvement was there in his condition, so far as you could observe it? A. I can't say. I don't recollect talking to him after that at all.

Q. Now from the nature of his disease, chronic mania, what would you say were the prospects of improvement or otherwise?

Mr. BIRNEY: That is objected to as not the best evidence that can be offered of the condition which in fact ensued of the patient.

A. The disease from which he suffered is progressive, or of a progressive nature, and goes from bad to worse.

Q. Doctor, in 1891, when you made these examinations of him, and were more particularly interested in his case, what evidence of his mental aberration would he show to observers or persons having business with, or conversing with him? A. The main thing was suspicious about his brother, and other persons, and delusions of prosecutions by them, robbery, and so forth.

332 Q. State whether his condition would be manifest to one conversing with him for any length of time, on business or other matters?

Mr. BIRNEY: Objected to, since no foundation, or sufficient foundation, has been laid for the inquiry.

A. Unless the conversation should happen to turn on the particular delusion from which he suffered, it would not be apparent to the casual observer.

Q. Now, you speak of the casual observer. State whether or not it would be apparent to one having daily business relations with him extending over a period of several months?

Mr. BIRNEY: Objected to as leading.

A. In my opinion, it would.

Cross-examination.

By Mr. BIRNEY:

Q. Did you ever discuss business affairs with him, Doctor? A. No, sir.

Q. Were you ever present when he discussed business matters with any other person? A. Yes, sir.

Q. With whom? A. With Doctor Goodlove, who was his attorney in a pension claim.

Q. Did he show an appreciation of the business of which he talked? A. To some extent.

Q. Well, to what extent did he fail to appreciate the character of the conversation in the business? A. On some occasions he was garrulous, diffusive, and on others he was morose and silent. That is about all I can say at this length of time.

Q. Did he show a knowledge of what was the subject of the conversation? A. The main subject of his pension claim, he did, but on the finer points of it—the legal technicalities, he did not.

Q. Did you know that he was familiar with the legal technicalities of pension law? A. I so understood at the time.

Q. He had never been a pension attorney within your knowledge, had he? A. He had not.

Q. Then, except for his failure to understand, or to appreciate the finer technicalities of pension law, you saw no evidences of any want of understanding? A. Beyond the alterations in character that I have detailed, I did not.

Q. How many times did you examine him? A. It depends upon what you mean by an examination.

Q. Well, I mean how many times did you make a medical examination to determine his condition of mind? A. A formal medical examination, only once. I had been more or less familiar with his condition before I examined him.

Q. What had been your opportunities before then? A. I at that time was transacting some business with Dr. Goodlove, and I used to see Mr. Edmonds in his office nearly every day, perhaps twenty times or more.

Q. Seeing him in the office, did you have conversations
334 with him? A. Yes, sir.

Q. On what subjects, Doctor? A. On the general topics of the day. On no particular subject that I can remember. I used to see him in the office there, and he used to make that a sort of headquarters.

Q. Did he discuss the general topics of the day understandingly? A. Sometimes he would, and at other times he would not answer at all. He would be perfectly silent.

Q. But when he did discuss them it would be with understanding? A. For a short time. He did not seem to be able to hold his mind on any subject for any length of time.

Q. Did you know what became of Mr. Edmonds after the trial? A. I did not. I used to see him on the street occasionally after that, but since that time I had no particular knowledge of him.

Q. During what period after that did you see him on the street? A. I cannot state definitely, perhaps six months.

Q. What is the technical designation of the malady under which he suffered? A. Chronic mania, or perhaps mono mania would come nearer to it.

Q. What was the character of that mania? A. Delusions of persecutions by his brother and others.

335 Q. Then, as mono mania, it was confined to that, was it not? A. Yes, sir; there were general evidences of a weakening of the mental capacity, though.

Q. But his delusions were confined to the idea of the persecution by his brother and what else, if anything? A. That is all that I remember at this time. That is the one that fixed itself in my mind.

Q. You do not recall that he had delusions upon any other topic? A. I do not recall that he did.

EDWARD A. BALLOCH.

Signed by the examiner by consent of counsel.

J. ARTHUR LYNHAM, *Examiner.*

Mr. TUCKER: The solicitor for the complainant here offers in evidence an official letter from the superintendent of the Government Hospital for the Insane, addressed to Davis and Tucker, and dated March 3rd, 1900.

NOTE.—And the same is filed by the examiner, marked Complainant's Exhibit in Rebuttal No. 1.

Mr. TUCKER: And also an official endorsement of the government of the Southern branch of the National Home for Disabled Volunteer Soldiers, dated March 19th, 1900, and attached to a letter addressed to him by Davis and Tucker.

NOTE.—And the same is filed by the examiner, marked Complainant's Exhibit in Rebuttal No. 2.

NOTE.—It is stipulated by and between the counsel for the respective parties that these official communications shall be accepted in evidence as accurately giving the information they convey with respect of George B. Edmonds, without formal production of the official records of the hospital and home.

Thereupon WILLIAM M. GOODLOVE, M. D. a witness of competent age, produced on the part of the complainant in rebuttal, and being first duly sworn, was examined and testified as follows:

Direct-examination.

By Mr. TUCKER:

Q. Where do you live, Dr. Goodlove? A. 201 T street, northwest.

Q. You have been a resident of this city for some years? A. I have been here since 1885.

Q. Are you a practicing physician? A. No, sir.

Q. You are employed, I believe, in the Pension Office? A. I went in the Bureau of Pensions as a qualified surgeon of that bureau in 1885.

Q. And have been in the Pension Office since 1885? A. Yes, sir. You understand me, I have not been in the active practice of medicine and surgery during that time.

Q. Were you acquainted with the late George B. Edmonds of this city? A. I was acquainted with George B. Edmonds. I did not know that he had died until you informed me to-day, though,

337 Q. Well, he died in 1896. A. Yes, sir, I was not here at that time.

Q. When did you first make his acquaintance? A. I am not prepared to state the exact year. It was in 1886, '7 or '8; one of those three years. He came under my observation at that time as an applicant for pension. I examined him for information in the bureau. That is my impression now. I know I had something to do with him, examining him there as qualified surgeon for a pension.

Q. And you knew him until what time? A. I knew him until sometime just before I left the city. I was located in Boston two years. After I left here for Boston, I did not see him again. I think it was in 1894 or '5 that I saw him last. I am not positive as to the exact time.

Q. Was he in the Homeopathic hospital when you last saw him ?
A. No, sir ; he was not in either hospital.

Q. Now, what was the degree of intimacy between you and Mr. Edmonds during that time you knew him ? A. Well, after I left the office in 1889—the Bureau of Pensions, I was out a while, and I was practicing before the bureau, and Mr. Edmonds called on me to file a claim for him for pension and I believe I did file it before I discovered and believed actually that he was insane. I think I filed the claim over again, if I am not mistaken, because I made up my mind that he was insane and irresponsible and I went to his brother and told his brother that George was in very destitute circumstances—

Mr. BIRNEY : Well, I object to the conversation.

Q. Well, don't relate any conversation with James B. 338 Edmonds. I just want to find out how much you saw of George B. Edmonds, and how intimately you knew him from, say 1889 up to 1894 or 1895 ? A. I saw him very frequently. I could not give you the exact years. Let me see. From about October, 1889 to some time during the year 1893. I think I saw him frequently, almost every day. There may have been times—there was one time he went away for a short while to the hospital for the insane, I think. Of course, while he was away I did not see him, but while he was in the city, during those years, I saw him every day almost.

Q. Do you know whether or not he was at any time an inmate of the Soldiers' Home at Hampton, Virginia ? A. I think I heard something of that, but I can't recall the date. I don't remember and I don't know it as a fact that he was there.

Q. Do you know whether or not he spend some of his time down in Virginia, in the Shenandoah valley, or Harpers Ferry ?

Mr. BIRNEY : That is objected to as clearly intended to be suggestive to the witness, and leading.

A. Only what he told me.

Q. Well, don't relate what he told you. Did you testify in the proceedings in the supreme court of the District of Columbia, in which Mr. George B. Edmonds was, by a jury of inquest, adjudged to be insane ? A. I cannot recollect that I did. I may have, but I cannot recollect that I did.

339 Q. Did you know of such proceedings ? A. Yes, sir ; I was the cause of them being brought.

Q. Why did you cause them to be instituted ?

Mr. BIRNEY : That is objected to as irrelevant and immaterial.

A. Because I discovered that he was not capable of prosecuting a claim for himself, according to my judgment.

Q. You mean his claim for pension ? A. Yes, sir. I was attorney for him.

Q. Now, from your previous intercourse with him, and your knowledge of him, what do you say was his mental condition at the time of that finding? A. I want to state that I am not testifying as an expert.

Q. Oh, no, you are not called for that. A. I considered that he was of unsound mind from the time that he first called upon me and filed his claim, in 1889, I think, the fall of 1889; I noticed that he was erratic in his movements, or actions. Came in to see me eight or ten times a day, walk in and walk around the room and stand at the windows and stare and make some foolish remarks and leave the office. I could do almost anything with him, but his brother nor his committeeman could not do anything with him much, until after he was appointed. I coaxed him and persuaded him to allow Mr. Cummings to be appointed. They wanted me to be appointed committeeman and to go on my bond, but I would not be bothered and declined it.

Q. What would you say of his capacity then, or his incapacity to conduct important business affairs? A. Well, I do not think that his condition was such that he could conduct a very small affair of his own even. He was scarcely able to take care of himself. That was the trouble. He was rather forgetful. He would commence to talk. He would put up his hand and say, "What was it I said just then; I have forgotten? Well, it is no matter." He would say, "It is of no importance." He would get up and move off maybe and I would have to call him back and finish the conversation with him, and I noticed that he was forgetful, and I thought he was suffering from paresis at that time, and in fact I told his brother so.

Q. State whether or not, at any time, because of his mental condition, you decline to transact business for him? A. Yes, sir.

Q. When was that and under what circumstances? A. Directly after I had filed his claim. I said to my clerk at the time that I did not think that that claim was valid. I did not believe the old—

Mr. BIRNEY: That is objected to.

Q. Don't relate what you said to the clerk? A. (Continuing:) Anyhow, I thought it best to go to his brother and talk about it. They wanted me to be appointed as I said before, and then they suggested Mr. Cummings. His brother would want to send money by me to George. I declined. I think I carried it once or twice, maybe, I believe I did, I am not positive. I know I declined thereafter to do that. I believe that I suggested that he be examined by Doctor Balloch and somebody else at that time. Doctor Balloch was a professor in a college, and I think I suggested Doctor Caldwell also, and Mr. Cummings left it to me as he was fearful he could not manage him or do anything.

341 Q. Now, Doctor, tell me, if you please, whether or not Mr. Edmonds' mental condition, was such as to be apparent to any

one transacting business with him? A. Well, I should think so. If you have five minutes' conversation with him you could not help but notice that he was irresponsible. He didn't know what he was talking about. He would forget the subject matter of which he was talking about in a two minutes' conversation.

Q. After the finding of the marshal's jury, did you, or did you not, observe any improvement in his mental condition? A. No; I think he grew gradually worse all of the time. That was my observation; and I feel confident now, since we have been talking, that I examined him for pension in about 1888, and I think I made a minority report that the man was insane at that time. Now, that is my judgment. Of course, I am not swearing positively to that, but that is my judgment.

Cross-examination.

By Mr. BIRNEY:

Q. Doctor, how long was it before the application for the appointment of a committee that you observed Mr. Edmonds to be affected in this way? A. As I said before, I think it was about 1888, or 1890, about the time I became acquainted with him, in 1888 or 1887, somewhere along there. Just before I left the Pension Office.

342 Q. How long were you out of the Pension Office? A. From 1889 to 1895. This early winter of 1895, February, 1895, I believe it was.

Q. When was it that you prepared the application for the pension? A. I believe that it was in the fall of 1889.

Q. Have you no means of refreshing your recollection? A. No, sir; not in my possession. I will tell you, I think you could be refreshed—where I could get the means of refreshing my memory, at Mr. William Fletcher and Co's. office; they have my old books.

Q. When did you leave Washington for Boston? A. In 1895.

Q. And when did you return? A. In 1895 I went into the Pension Office. I entered the Pension Office in February, and I left for Boston in April—in May 8th. I remember the date exactly now. I returned—let's see—what year was President McKinley elected?

Mr. BIRNEY: 1896.

A. Returned in April 1897 from Boston.

Q. How frequently did you see Mr. Edmonds after the committee was appointed? A. Oh, I saw him frequently after the committee was appointed. After he had a guardian or committeeman I saw him frequently.

Q. Where did you see him? A. At my office.

Q. He was under no restraint that you knew of? A. No. Only part of the time I think I suggested that they had better take him

343 to the asylum, and I thought he was taken there a short while; that is my impression, I think he was. In fact, I feel confident in the matter, that he was taken over here to the hospital for the insane in this city.

WM. M. GOODLOVE.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

Thereupon HORACE S. CUMMINGS, the complainant, having been heretofore duly sworn, was re-called and further interrogated in rebuttal.

Direct-examination.

By Mr. TUCKER:

Q. Mr. Cummings, Mr. John C. Scott, in his deposition on behalf of the defendant testified that from 1887 until the summer of 1892, Mr. George B. Edmonds was in Colonel Moyers' office almost daily. Were you acquainted with Mr. Edmonds during that period? A. I was.

Q. Please state how much of the time between March, 1887, and the summer of 1892 Mr. George B. Edmonds spent in the District of Columbia, so far as your knowledge goes. A. Well, can I—I want to change that question a little.

Q. Well, don't change the question. Make your answer. A. Well, I would say from the summer of 1888 to January 1891, 344 I do not think that Mr. Edmonds was in the District of Columbia more than three or four months.

Q. Where did he spend the rest of his time, so far as you know? A. I know that he went somewhere in the vicinity of Harpers Ferry, and somewhere below that, in the valley of Virginia, and was gone several months. I know that he was at the Soldiers' Home in Hampton from July, 1889 until February 1890. I know that he was away in the summer of 1890. It was somewhere in the vicinity of Harpers Ferry. Where it was I could not say.

Q. Did he ever spend any time in the Homeopathic hospital in this city, to your knowledge? A. In January, or the latter part of January, or the first of February, 1895, he was taken with a stroke of paralysis or apoplexy, I don't know which, and was very sick, and I at once made arrangements for him to go to the Homeopathic hospital, and he went there the first part of February, 1895. He remained at the hospital and was not out of the hospital for a year, absolutely helpless. In February, 1895, the authorities at the hospital said that his was an incurable case.

Mr. BIRNEY: That is objected to.

Q. No, don't state what they said. Don't state what the author-

ties of the hospital said. A. (Continuing:) Well, in February, 1896, I had him taken from there over to Dunloring, in Virginia. I made arrangements with a man by the name of Charles Taylor, who lived on the farm of a friend of mine, to take Mr. Edmonds and take care of him. He went there and was taken care of and I paid all
345 the bills to the date of his death, which was the very last of October, or the first of November, 1896.

Q. Mr. Cummings, I hand you a letter dated May 26th 1899, addressed to you, and purporting to be signed by Gilbert Moyers and ask you to state whether that letter has ever been in your possession. (Handing witness letter.) A. (After examining same.) This letter has been in my possession from the date of its receipt, on the same date that it was written.

Q. Whom did you receive it from? A. I received it through mail.

Q. From whom? A. From Gilbert Moyers.

Q. Was it in response to any letter that you had written to him? A. It was.

Q. Do you know whether the signature to it is in Gilbert Moyers' handwriting? A. I do.

Q. Is it his handwriting? A. The signature is Gilbert Moyers' own handwriting.

Mr. TUCKER: I offer in evidence the letter just exhibited to the witness.

NOTE.—And the same is filed, marked Complainant's Exhibit in Rebuttal No. 3.

Q. I hand you an envelope marked, Susan S. Merrill, and containing other endorsements, which envelope contains a blue envelope upon which several indorsements are made, and which blue envelope

346 contains a letter dated April 9th, 1886, purporting to be signed by Susan Merrill, and ask you whether these envelopes and this letter were ever in your possession? A. The envelopes and the contents as it appears there are in the same condition in which I found them in Mr. George B. Edmonds' papers.

Q. They have been then in your possession since the death of Mr. George B. Edmonds? A. They have.

Q. And were found in his effects? A. Found in his effects, in the trunk containing all of his papers.

Mr. TUCKER: I offer in evidence the papers just identified by the witness.

NOTE.—And the same are filed, marked Complainant's Exhibit in Rebuttal No. 4.

Mr. TUCKER: The solicitor for the complainant also, in this connection, offers in evidence the return of the Secretary of the Treasury heretofore made to a request by the supreme court of the District of Columbia for certain information to be used in this suit

in connection with the claim of Susan S. Merrill, said return to be read in evidence at the hearing.

Cross-examination.

By Mr. BIRNEY:

Q. Mr. Cummings how are you able to give the dates of Mr. Edmonds' stays in the District of Columbia, and his absence therefrom? A. From general recollection of the time of year.

Q. Have you in your possession anything from which you 347 have refreshed your mind? A. No, I have no recollection of anything to refresh my mind, except the letter that was sent from the home, at Hampton.

Q. That is to say, the letter which has been to-day offered in evidence? A. The letter was offered in evidence. I know the time of the year that it was in, but I could not tell the date.

Q. Now, where was Mr. Edmonds in the summer of 1890? A. He went away and was gone several months, where I don't know, except when he came back I asked him where he had been and he said he had been up in Virginia.

Q. Well, how intimate was your association with him at that time? A. Well, I used to see him very, very often.

Q. Where? A. In my office?

Q. You saw him when he chose to come to your office? A. And when I would meet him on the street. I think then he was boarding at the corner of Twelfth and F streets. I won't be positive, but I think he was boarding at the corner of Twelfth and F streets.

Q. You did not visit him at any time at his boarding house? A. No, sir.

Q. You don't know when he returned? A. I could not say when he returned or when he went.

Q. Well, where was he after that? A. He was here.

Q. Up to what time? A. He was here in December certainly 348 1890, and then he was adjudged a lunatic in January, 1891.

Q. Well, where was he during 1891? A. He was in the city.

Q. Where was he living? A. He lived for quite a while on Seventh street between L and M, as I recollect, on the east side.

Q. Was he under any restraint? A. No; he was under no restraint. If I may offer an explanation I will tell why.

Mr. TUCKER (to the witness): Just state why, Mr. Cummings.

A. His brother, James B. Edmonds, had a conversation with Doctor Godding, and Doctor Godding said that George B. Edmonds—

Mr. BIRNEY: Well, that is objected to as incompetent.

A. (Continuing:) Was harmless.

Mr. TUCKER (to the witness): Well, don't state what Doctor Godding said.

Q. Where, then, did he live after he left the place you have just mentioned? A. He went up on F street, between Sixth and Seventh, north side.

Q. Did he live there with any relatives, or—— A. No relatives.

Q. Lived in a boarding house? A. No; there were two ladies there, elderly people, and I hired a room of them in which Mr. Edmonds lived, and at my request they looked after him.

Q. He went about freely at that time? A. He went about freely at that time.

349 Q. Who paid all of his bills? A. I paid all of his bills.

Q. To them? A. To them.

Q. And to other persons? A. Other persons. Clothing, food, books, stationery of every kind—I paid every bill.

Q. For how long a period? A. From 1891 to the date of his death.

Q. Did you have any funds of his in charge? A. Only his pension.

Q. And how much was that? A. Twenty-five dollars a month, I think, and afterwards increased to thirty.

Q. That you applied in your reimbursement? A. Yes. And if you will look at my account as passed by the auditor you will find that the auditor found that I had paid out some two or three hundred dollars more than the amount that came to me.

Q. You mean in your account as committee? A. As committee.

Q. Did you at any time exercise any restraint, as committee, over Mr. Edmonds, up to the time of his death? A. Well, what do you mean by that? Physical restraint?

Q. Yes. A. No. No occasion for it.

Q. What part, if any, did you take in the care of the business in which he had been before that time concerned? A. I took no part in it.

350 Q. Why not? A. Simply because I knew that he had turned it over to Mr. Moyers.

Q. Did you make any inquiry about it? A. I knew that they were all what we might call Bowman Act cases, and no appropriations had been made to pay them, as I was assured.

Q. Did you ever get any list of them, or memorandum of them? A. I did not. I depended on what other people told me.

Q. Do you know whether or not Mr. Edmonds was attempting to take care of those cases in any way? A. I never heard that he did.

Q. Did you make any inquiry whatever about that? A. I did not, only I asked Mr. James B. Edmonds if anything was coming to him, and he said no. That is, he said—well, I can't say what he said.

Q. When was it that he left the District finally? A. At what time?

Q. Yes. A. In February, 1896. I procured a carriage and two men to carry him to the station, and he went over there to what they call Dunloring station, and there another team met him and carried him to Mr. Taylor's house.

Q. During the time that he was in the District he was not attended by any person who was in the custody of him. A. No.

Q. He went about the city by himself? A. He went around the city by himself, and I made a request of him that he should 351 come at least once a week to see me, which request he not only carried out, but probably went a hundred per cent. better.

HORACE S. CUMMINGS.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

Thereupon H. LEROY MARK, a witness of competent age, produced on the part of the complainant in rebuttal, and being first duly sworn, was examined and testified as follows:

Direct-examination.

By Mr. TUCKER:

Q. Mr. Mark, where do you live? A. Woodmont, Iowa circle.

Q. What is your occupation? A. I am in the real estate department of the Washington Loan and Trust; superintendent of the building.

Q. Have you in your possession now, the rent book of the Washington Loan and Trust Company building? A. Yes, sir.

Q. For the years 1892 and 1893? A. Yes, sir, up until 1898. This book runs.

Q. Will you please produce it? A. Yes, sir; here it is.

352 Q. Please point out what, if any, entry there is in that book relating to the tenancy of Gilbert Moyers in the Washington Loan and Trust Company building? A. Mr. Moyers signed lease No. 110 for rooms Nos. 33 to 36 on the third floor, dated January 1st, 1893, and expiring December 31, 1893 for one year.

Q. In whose handwriting are those entries? A. In Tenney Ross'. He was at that time the custodian of the building.

Q. Where is Ross now? A. He is in the Philippines now, I believe.

Q. He is in the army? A. Yes sir; as lieutenant.

Q. Did you ever see his writing—see his handwriting? A. Yes, sir. I took up the work that he laid down as he left.

Q. From the entries in that book, please state when Mr. Moyers' tenancy began and when it ended? A. His lease began January 1st, 1893, cancelled May 31st, 1895—the lease was cancelled on June 3rd, 1895, he paid ninety dollars rent, which was the last payment he made and it was cancelled on May 31st.

Q. How much rent did he owe when he went out?

Mr. BIRNEY: That is objected to as improper.

A. From the showing here it seems as though he had squared up. He paid the May rent on June 3rd, and it was cancelled on May 31st.

In fact, he paid three months' rent on June 3rd.

353 Q. Look at those entries carefully again, Mr. Mark, please.

A. Yes, sir.

By Mr. BIRNEY:

Q. You mean that is correct? A. Correct, yes sir.

By Mr. TUCKER:

Q. Don't they show that he owed a large balance for rent?

Mr. BIRNEY: That is objected to as leading and clearly incompetent. The books being a much better witness than Mr. Tucker.

A. No. It is bearly possible that Mr. Moyer- turned in a note for this, but I don't know whether he did or not.

Mr. BIRNEY (to the witness:) The question is, what the books show?

A. The books show that it was paid here, and the lease is cancelled on May 31st, 1895, and he has paid here the month of May, which means up to May 31st. On June 3rd, he paid the March, April and May rent.

Q. Is that the book of original entry? A. Yes, sir.

Mr. TUCKER: I offer in evidence the entries in that book, and it is stipulated between counsel for the respective parties that the statements of the witness with respect to the entries shall be taken as correct without further proof.

Cross-examination.

354 By Mr. BIRNEY:

Q. Mr. Marks, was Mr. Moyers a tenant of the building before the time you mentioned? A. Why, I can almost say that he was not, because it goes in the book the minute he moves in the building.

Q. Have you looked at the books or records to see if Mr. Moyers was a tenant before the time you named? A. Yes, sir, I have gone before this entry here and have found nothing. His first lease was 110.

Q. How far back did you go? A. I have gone back to the construction of the building from lease No. 1. That is the first lease that Mr. Moyers signed January 1st, 1893.

Q. You find no other indication of his tenancy prior to lease 110? A. Nothing directly there at all.

Re-direct-examination.

By Mr. TUCKER:

Q. Where were these rooms situated that were covered by his lease in the building? A. Rooms 33 to 34 on the third floor. Now it is possible that he had moved, I don't know. No, he kept those same rooms all through his tenancy.

Q. Where were those rooms located in the building? A. On the third floor.

Q. On the Ninth Street side or on the L? A. In the L, the same suite that Hemphill and Peter have now, or David H. Meade.

H. LEROY MARK.

355 Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

Thereupon CHARLES A. ECCLESTON, a witness of competent age, produced on the part of the complainant in rebuttal, and being first duly sworn, was examined and testified as follows:

Direct-examination.

By Mr. TUCKER:

Q. Mr. Eccleston, what is your occupation? A. I am an attorney at law.

Q. Where were you employed in the year 1892? A. In the office of Thomas J. Fischer and Company, 1324 F street.

Q. And what was your connection with that office? A. Well, I was clerk.

Q. At that time were you acquainted with Colonel Gilbert Moyers? A. Yes.

Q. State whether you know, of your own knowledge, that Gilbert Moyers rented or leased offices through Thomas J. Fischer and Company at that time?

Mr. BIRNEY: That is objected to as irrelevant and incompetent.

A. He did.

Q. What offices? A. He rented the second floor of premises 356 1305 E street, northwest.

Q. When did he surrender his tenancy of those offices? A. He vacated on the 31st, of December, 1892.

Cross-examination.

By Mr. BIRNEY:

Q. How are you able to give the dates, Mr. Eccleston? A. Well, I refreshed my recollection of the day by going to the office of Thomas J. Fisher and Company and looking at the books. The entry which I made myself and was made in my own handwriting.

Q. What was the entry? A. The usual entry, vacated December 31st, 1892.

Q. Then you are testifying as to the date from the entry in that book? A. As I made it there at that time.

Mr. BIRNEY: The testimony of the witness is objected to as clearly incompetent.

Re-direct examination.

By Mr. TUCKER:

Q. State, Mr. Eccleston, what your independent recollection of that is as refreshed by your examination of the entry that you made?

Mr. BIRNEY: That is objected to unless the record is produced.

A. My recollection is that Mr. Moyers did occupy the premises up to the latter part of the year 1892.

357 Re-cross examination.

By Mr. BIRNEY:

Q. How are you able to fix the year? A. Well, it would take a little explanation. Mr. Moyers was very delinquent as a rent payer.

Mr. BIRNEY: That is objected to as not in any way responsive to the question.

A. (Continuing:) Well, of course where I would not notice a tenant that would pay his rent promptly, it would be impressed more upon my mind when he did not pay so promptly.

Q. That might impress upon your mind that he was a tenant, but I asked you how are you able to fix the year from recollection? A. You mean by independent recollection, irrespective of looking at the books, ha?

Q. Yes, sir, your independent recollection? A. I can recollect he was a tenant there in 1892.

Q. How do you know it was not 1891? A. I could not say positively—I could not say positively that it was 1892 outside of refreshing my recollection of it.

By Mr. TUCKER:

Q. After refreshing your memory, as you did, Mr. Eccleston, by examining that entry that you made, are you willing to swear that Mr. Moyers vacated those premises, 1305 E street, on the 31st of December 1892?

Mr. BIRNEY: Objected to for the same reasons heretofore given.

A. I certainly am.

CHAS. A. ECCLESTON.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

358 Mr. TUCKER: The solicitor for the complainant here offers in evidence the affidavit of John C. Scott and Ezra Nat Hill, which are attached to the answer of the defendant Gilbert Moyers to the bill of complaint in this cause, for the purpose of impeaching and contradicting their testimony as witnesses, and upon the ground that such affidavits and the depositions of said affiants as witnesses contain conflicting and contradictory statements, and the same will be read at the hearing.

WEDNESDAY, *May 16th, 1900*—4 o'clock p. m.

Met, pursuant to agreement, to resume the taking of testimony in rebuttal on the part of the complainant.

Present: Charles Cowles Tucker, Esq., of solicitors for the complainant, and Arthur A. Birney, Esq., solicitor for the defendant.

Whereupon JOHN R. CARMODY, a witness of competent age, produced on the part of the complainant in rebuttal, and being first duly sworn, was examined and testified as follows:

Direct-examination.

By Mr. TUCKER:

Q. You are a resident of the District of Columbia, Major? A. I am.

Q. Were you connected with the Washington Loan and Trust Company in 1895? A. I was, in the capacity of treasurer.

Q. Were you acquainted at that time with Gilbert Moyers? A. I was.

Q. Was he at that time, and prior thereto, a tenant of the Washington Loan and Trust building? A. He was.

Q. When he ceased to become a tenant did he owe the trust company any money for rent? A. Yes.

Mr. BIRNEY (to the witness): That is, in 1895?

The WITNESS: Yes, 1895.

Mr. BIRNEY: That is objected to, as it can have no relation to the subject matter of this suit.

Q. How much?

Mr. BIRNEY: Objected to on the same ground.

A. He gave a note for \$212.21 in June of that year, 1895.

Q. Was that note given for arrears of rent? A. Yes, sir.

Q. Do you recall how much his rent was a month? A. It must have been in the neighborhood of eighty dollars, I am not positive about that. The record will show.

Q. Prior to that time, had you had any trouble in collecting rent from Mr. Moyers?

Mr. BIRNEY: Objected to as immaterial.

A. Yes, we had considerable difficulty with him in that respect.

Q. State whether or not he was at any time during his tenancy largely indebted to the trust company for rent?

360 Mr. BIRNEY: Objected to.

A. Yes; at one time I think I secured seven hundred dollars—at least seven hundred dollars in arrears; but he was for a couple of years in hard luck and plead poverty. When he first entered he was prompt, and afterwards, as I say, he seemed to be in straightened circumstances. He plead straightened circumstances, and there was considerable due him from the Government at different times.

Cross-examination.

By Mr. BIRNEY:

Q. Was this straightened condition at the last of his tenancy? A. Well, I think it spread, over at least a year, and perhaps more.

Q. That is to say, the last year of his tenancy? A. Yes, at least that, and possibly back of that.

Q. Before that time he had been prompt? A. Yes, when he came in, in February, I think, 1893, along there he was quite prompt.

Re-direct-examination.

By Mr. TUCKER:

Q. On one occasion, however, he was in arrears over seven hundred dollars? A. Yes.

361 Q. And when he went out he was in arrears \$212.21? A.

Yes; he gave a note in settlement of arrears in going out of \$212.21.

JOHN R. CARMODY.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

Thereupon H. LE ROY MARK, having been heretofore duly sworn, was recalled and further interrogated.

Direct-examination.

By Mr. TUCKER:

Q. Mr. Mark, you testified at the last session that the rent books of the Washington Loan and Trust Company showed that Mr. Gilbert Moyers' rent had been settled. Do you desire to add anything to your testimony, or to explain it in any way? A. Well, I made a provision there that possibly that rent had been paid by a

note and posted on this tenants' register which only acts as a blotter and not a cash book.

Q. Well, have you since found that to be the case? A. Well, I have since found that he paid by a note and not in cash.

Q. Has that note ever been paid? A. Not to my knowledge.

Cross-examination.

By Mr. BIRNEY:

362 Q. Have you any knowledge of that at all? A. I have seen the note and have seen that it has not been paid.

Q. When did you see it? A. I saw it just a few minutes ago. Mr. Tucker has it in his hand now.

H. LE ROY MARK.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner.*

At this point an adjournment was taken until to-morrow, Thursday, May 17th, 1900, at 3 o'clock p. m.

363 I certify that the foregoing depositions (comprising 38 typewritten pages) were taken down by me in shorthand, as an examiner in chancery, from the statements when and as uttered by the deponents thereof; that the same were thereafter transcribed and reduced by me into print, and thereupon subscribed by me for said witnesses, pursuant to agreement of counsel first had and obtained.

I further certify that my fee of \$22.00 for taking, certifying and returning said depositions has been paid to me by the complainant, and that the same is just and reasonable.

And I further certify that I am not of counsel, nor in anywise interested in this cause.

J. ARTHUR LYNHAM, *Examiner.*

364 Thereupon G. W. Z. BLACK, heretofore sworn as a witness on behalf of the defendant, was produced as a witness on the part of the complainant in rebuttal, and testified as follows:

Direct-examination:

Q. How long have you been practicing law, Mr. Black, in this city? A. Well, since—I have been practicing before the departments and before the Court of Claims for about twenty-five years and before the Court of Claims proper for—I do not know—ten years I suppose. I do not know the time exactly.

Q. That is all I want, about the approximate time. Were you acquainted with the late George B. Edmonds? A. I had some acquaintance with him, not extensive.

Q. Please state briefly the extent of that acquaintance, how you made his acquaintance and how well you knew him? A. Well, I saw him about the Court of Claims and met him on the street to talk with him a few times, not often and I think I saw him in my office probably two or three times during his life.

Q. Do you recollect about when your acquaintance with him began? A. Well, it was, I think, along somewhere about 1885 or 1886. Somewhere in there. It might have been a year earlier or later, I do not know.

365 Q. And over how many years did your acquaintance extend as nearly as you can recall? A. Well, I should think a period of about five years.

Q. Did you know him in 1891 and 1892 as nearly as you can recall? A. I think I did.

Q. At that time from your acquaintance with him and your knowledge of him gained from your conversations with him, please state in your opinion what was the mental condition of Mr. Edmonds?

Mr. BIRNEY: Objected to since it does not appear that the witness had sufficient opportunity to form an opinion.

A. Well, my opinion of him was that he was a man of rather weak mind and apparently inoffensive.

Q. What can you say of his capacity to conduct business matters or to make contracts? A. Well, you know that is a matter largely of opinion.

Q. I ask for your opinion. A. You do.

Q. Yes, sir, the question is as to what your opinion in that respect is? A. Well, it is a difficult question to answer. As I stated before he was an inoffensive fellow and either had very little business capacity or else he was indolent or not altogether competent or a combination of the whole thing. It is difficult to analyze it. It is

very difficult. He had a number of cases on the docket at 366 the court and he did not seem to do anything himself with them.

Q. Do you know who acted for him in those cases? A. Well, so far as I saw, Col. Moyers, I think—in fact Edmonds told me that on one occasion, probably twice, when I could see from the docket that Col. Moyers' appearance was entered in a great many of his cases.

Cross-examination.

By Mr. BIRNEY:

Q. Mr. Black, did you have any business transactions with Mr. Edmonds? A. I had one business transaction.

Q. When was it? A. I could not remember the date. I could tell—I have papers in my office.

Q. Can you give us the year? A. I could not. I can produce the papers, if you give me time.

Q. Can you approximate the time now? A. No, I could not. Some years ago.

Q. The period we are talking about was some years ago. Was it in 1891 or 1892? A. I could not tell without looking up the papers. I can tell by them.

Q. What was the transaction? A. Why, it was a claim of a client of his in Arkansas.

—. And what was done with it as far as you were concerned?

A. He sold me his fee.

367 Q. At that time did you regard him competent to transact business? A. I thought it was.

Q. What was his condition at that time. Any different from what it was at other times when you saw him? A. I think that his condition generally was about the same. He was a man that did not have much to say and he was never demonstrative that I know of.

Q. Then you regarded him as competent to transact business? A. Yes, sir; he was at my office—that was the only time I ever saw him—two or three times—he came to my office four or five times. I did not want to go into the transaction but he came to me repeatedly and finally I consented to buy the fee. He seemed to talk rationally.

Q. You regarded him then as rational and competent to transact business? A. Yes, sir.

Q. What was the condition of that case at the time you dealt with Mr. Edmonds? A. It was a peculiar kind of case. It was a case for a loss of a boat or vessel and there had been a finding by the court and the court had turned the case—they had made a finding and it was a peculiar kind of case.

Q. That finding allowed a part of the claim? A. Yes, sir.

Q. And was it after that that you dealt with Edmonds? A. Yes, sir.

368 Q. Then the case was waiting at that time for an appropriation by congress to pay it? A. Yes, sir.

Q. And that appropriation was made by the act of 1891? A. I presume it was, yes, sir.

Q. Can you refresh your memory in that regard? Can you tell us how long before the passage of the act of 1891 and before the appropriation was made that you dealt with him? A. I could not—I can tell if you allow me to go to my office. I could not tell you now. It has been nearly ten years ago. It passed from my mind and I would not pretend to give the date, but I can give the date.

It is agreed that the witness furnish the examiner the date in question.

Re-direct examination.

By Mr. TUCKER:

Q. Mr. Black, how much money did you pay Edmonds at that time? A. I paid him \$200. I think.

Q. What was the amount of the claim? A. The claim was—the amount of the claim was \$4400.

Q. How much was the amount appropriated? A. I think that was the amount allowed.

Q. What was the fee agreement? A. I think it was fifty per cent.

Q. And you bought Edmonds for— A. It was either \$200. or \$400.

369 Q. You will furnish that information? A. Yes, sir.

Q. You bought the claim after the findings of the Court of Claims and before the appropriation was made? A. Yes, sir.

GEO. Z. BLACK.

Subscribed and signed for the witness by me by consent and agreement of counsel this 21 day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

WASHINGTON, D. C., *May 22nd, 1900—2 o'clock p. m.*

Met pursuant to adjournment at the law offices of Messrs. Birney and Woodard, Mertz building, to take further testimony for and on behalf of the defendant,

Present: Same parties.

Whereupon HORACE S. CUMMINGS, the complainant, having been heretofore sworn, and being re-called, testified as follows:

By Mr. TUCKER:

The solicitor for the complainant states that the following questions which are to be propounded to the complainant, as a witness, will relate to the question of the mental competency of George 370 B. Edmonds, deceased. Mr. Cummings, was not heretofore examined upon the subject because of the belief that his testimony upon this subject would be incompetent under section 858 of the Revised Statutes, but in view of the fact that the defendant has testified upon this subject the complainant will be examined thereupon leaving it to the court to determine at the hearing as to the competency of the testimony of the complainant, and the defendant to testify under the circumstances of this case.

Mr. BIRNEY: Objected to as irregular and because the witness has heretofore been interrogated and has testified upon the subject indicated.

Q. Mr. Cummings, how intimate was your acquaintance with the

late George B. Edmonds, during his life time? A. My acquaintanceship with George B. Edmonds commenced about 1871 or 1872 when he came to this town, in accordance with the request of Mr. Williamson, who was Commissioner of the Land Office and he appointed him or rather the Secretary of the Interior, Mr. Kirkwood, on Mr. Williamson's recommendation, appointed him as the law attorney of the Land Office and from that date to the date of his death I have been acquainted with him or was acquainted with him. That acquaintance grew as time went on.

Q. Was your acquaintance intimate or otherwise? A. Intimate rather than otherwise. In other words, he seemed to tie to me.

Q. From your knowledge of him or your acquaintance with him please state what in your opinion was his mental condition and capacity between 1891 and the date of his death?

Mr. BIRNEY: If by this inquiry the witness is desired to
371 state the results of conversations had with the said George B. Edmonds counsel for the defendant objects.

Q. Answer the question, Mr. Cummings? A. Mr. George B. Edmonds had a *check* he received in 1891. His mind seemed to be all gone. He could not talk ten minutes consecutively on the same subject sensibly or reasonably. He would go back and he would repeat and he would inject things in his statements that had nothing to do—something entirely different—some other subject entirely, and would *and* commence and go right through the whole thing. In matters of business he was a simple child. He used to come in my office during that period very frequently. Sometimes every day for a week and then he would not come in for a week until it became notorious among the people who were there that they wanted to know how my lunatic was getting along.

Mr. BIRNEY: Objected to as a statement of hearsay declarations.

Q. State whether in your opinion he was between the years 1891 and the time of his death capable of making a valid deed or contract? A. He only was not capable of making a valid deed or contract, but he was not capable of making or doing the slightest business. I used to have to buy everything for him from stockings and his shoes and food, everything.

Cross-examination.

By Mr. BIRNEY:

Q. You have spoken of his having had a shock in 1891.
372 What time in 1891 was it? A. I think in the month of January.

Q. Have you any way of refreshing your recollection? A. Oh no, but I say it was latter part of January.

Q. Why do you fix the latter part of January as the month? A.

I simply because I know that it was along in February I took him right from his room that he had been sick in up to the Homeopathic hospital—1891—you mean 1891?

Q. Yes, sir. Q. Well, simply I stated from the ordinary observation and intercourse with the man.

A. I am asking about the dates?

(The question is hereupon read over to the witness.)

A. Because it was at that time that he—simply because it was January 1891. He got so bad and was incapable of doing anything for himself that his friends said that he must be under guardianship.

Mr. BIRNEY: Objected to as not responsive to the question and statement of what other people said is not competent.

Q. And when he was adjudged a lunatic he seemed to grow worse, rapidly worse, so much so that for instance I gave verbal notice to the chief of police to please keep look out for Mr. Edmonds.

Mr. BIRNEY: Objected to as not responsive. I have asked how you fixed the date?

A. From the fact that he had been adjudged a lunatic by the court.

Mr. TUCKER: I do not think Mr. Cummings understands your question.

Q. What enables you to fix the month and the year which 373 he received the shock which as I understand was a paralytic shock or some similar stroke? A. He had paralytic stroke.

Q. What kind of shock was it you refer to? A. I refer to the shock he received in 1895. That is what I thought—he had a shock then.

Q. When did he receive the first shock as you term it? What was its nature? A. That was sometime in 1873. I should say it was about 1873—about 1883.

Q. What was its nature? You have not answered the last part of the question. A. I think the doctor called it apopletic. I could not be sure.

Q. What was his condition after that? A. There was no change in his condition except a very slight one for two or three—several years after that, but he became so bad—though perhaps not perceptible, to the ordinary observer that the Secretary of the Interior, Mr. Kirkwood, who was a townsman of his advised him to give up—

Mr. BIRNEY: Objected to as not within the knowledge of the witness.

A. And he was appointed as timber inspector in the South—mostly in Alabama and Mississippi.

Q. What was his condition during the three years following 1883 when you say he had his shock? A. While his condition was practically the same as it was before he seemed to recover though he did not have the physical strength that he had before.

Q. When did you observe a failing in his mental powers?
374 A. I should say along about 1889 or 1890 it became evidence.

Q. What caused that failing? A. I could not tell. I observed the fact.

Q. Did he have any other shock. If so when and what was it?
A. Not that I know of until the shock of 1895.

Q. The two shocks of 1883 and 1895? A. Yes, sir.

Q. What was your immediate cause of your taking occasion to have him declared a lunatic in 1891? A. I did not take the occasion to have him declared a lunatic myself, but it was done on the suggestion of his relatives and as I understand that Doctor Goodlove, who had been brought into contact with him was a man who took the immediate action. Of that I am not sure. All I know that Dr. Goodlove came to me and asked me—

Mr. BIRNEY: Objected to as incompetent.

A. And asked me if I would be willing to be the commissioner or guardian of Mr. Edmonds. I asked why and he said that he did not consider that it was safe for him to have charge of his own affairs and his brother Commissioner Edmonds—

Mr. BIRNEY: That is all incompetent to burden this record with hearsay.

Q. How long before that had you noticed a failing in Mr. Edmonds' powers? A. I had not noticed it so much until 1889 because after—before 1888—between 1885 and 1888 I did not see so much of him. Though I saw him frequently.

375 Q. How frequently? A. Sometimes I would see him every day and sometimes I would not see him for a month.

Q. How frequently did you see him after? A. Quite frequently.

Q. More frequently than you have stated just now? A. Much more frequently.

Q. More than daily? A. Probably not.

Q. Did you not have abundant opportunity to examine his condition between 1883 and 1887? A. I did not.

Q. Did you not see him very frequently? A. I saw him frequently and I think most of the talk would be about the day—perhaps a little talk, but nothing of any account.

Q. That was the extent of your communication after that? A. No, sir; he came in my office and staid by the hour.

Q. Did you have any business with him? A. No, sir, no business in any shape or form except—

Q. When did he begin to come to your office and stay by the hour? A. Oh, mostly in 1890.

Q. Not before that time? A. He would come, but not to make any stay.

Q. He was in your office frequently before that time? A. Yes, sir, I would see him frequently, not nearly as frequently as I did after.

376 Q. When did his employment for the Government cease?

A. I could not tell. I could imagine sometime in 1885—possibly it was 1884. I could tell you many things that would not probable be testimony. You probably would object to it.

WITNESS (making further statement): I want to qualify the statement of his being in my office frequently. I mean, of course, when he was in the city, because I have already testified that he was out of the city quite a while in 1889 and '90.

By Mr. BIRNEY:

Q. You have testified that you paid Mr. Edmonds' bills? A. I did.

Q. Did you pay them to the persons to whom he had incurred the debts or did you pay them to him? A. Some I did and some I did not.

Q. Did you take any vouchers for any payments you made? A. In same cases I did and some I did not. I kept a memorandum schedule and I presented that schedule. Whether it comprised all the items I cannot say. That was presented to the court—before the auditor.

Q. That was a statement of account as committee? A. Yes, sir.

Q. I show you now the paper taken from the files in the lunacy case of George B. Edmonds, No. 12,926 accompanied with an affidavit by you and ask you if that is the paper you refer to in the last answer?

(Handing witness paper.)

A. It is.

377 Mr. BIRNEY: It is already in evidence.

Mr. TUCKER: Yes, sir.

Q. Did you testify before the auditor at the time of the settlement of your accounts? A. I did.

Q. Did you file any vouchers at all with him? A. I won't be sure.

Q. Look at the paper before you and say whether you did or not? A. By this it would appear that I did not file vouchers for the specific items.

Q. Is it not the fact that you paid the money for board and clothing and other expenses, for living, to Mr. Edmonds himself to be by him disbursed? A. In some cases I did.

Q. Did you not do it as a regular and general thing. Did you not give that as a reason for not producing any vouchers before the auditor in stating your account? A. Mr. Edmonds would come to me and say, Mr. Cummings my board is due and I would ask, George, how much it is and I would give it to him. He would then say I must have some new stockings—I must have some clothes. I would say Go and see what you want and what they cost and he would go and I would ask him where—do you — if that is a good place, so and so—perhaps go to such and such a place. He would say I can get what I want for so much and I would take and give him the money and he would get it. He was a man who was perfectly honest in my opinion.

378 Q. And perfectly capable of transacting all business of that kind? A. Undoubtedly he was of that kind or I would not have trusted him for such a small amount of money in each case I absolutely knew the amount that he wanted and for which it was going and then I would go around to the place where he lived or boarded and ask if the debts were paid.

Q. Did you then take any vouchers at all or is it not a fact that you paid all the money or substantially all the money on his behalf through Mr. Edmonds himself? A. I would say the greater part I did.

Q. You regarded him as able to state to you intelligently and truthfully what his debts were? A. I would say that he would state everything truthfully, but as to whether everything was intelligibly I could not say, but in each case where I paid him it was for a specific sum and I knew what that sum was and I knew how much he paid for room and board. I knew what the bills were.

Q. He, however, transacted the business of paying for his board and paying for his clothing and paying for his other supplies? A. He did as a rule. I trusted him simply as a matter of pride on his part, because he felt hurt. A man who's insane is the last man to acknowledge it.

Mr. BIRNEY: I object to your argument. I have asked you for the fact.

Mr. TUCKER: I object to all this testimony.

HORACE S. CUMMINGS.

379 Subscribed and signed for the witness by me by consent and agreement of counsel this 24th day of May, 1900.

MASON N. RICHARDSON, *Examiner.*

JOHN W. BUTTERFIELD, a witness for the complainant, heretofore sworn, being recalled, testified as follows:

By Mr. TUCKER:

Q. Mr. Butterfield, you have heard Col. Moyers' testimony with respect to the statements alleged to have been made by you to him regarding an alleged assignment by George B. Edmonds to Mr. Cummings dated about 1895. What have you to say as to that statement? A. I want to correct Mr. Moyers in his statement. Mr. George B. Edmonds so far as my knowledge goes, never made any assignment to Mr. Cummings—none shown to me. The assignment which I showed to Mr. Moyers was from his brother the sole heir. Knowing that Mr. George B. Edmonds had been a long invalid—

Q. You mean James B. Edmonds? A. He had no debts, but I thought we might settle the matter by an assignment of Judge Edmonds to Mr. Cummings without the expense of taking out letters.

When I discovered that Mr. Moyers was disinclined to come
380 to any agreement in regard to that, that is accepting the assignment, I advised Mr. Cummings to take out letters of administration and calling on Mr. Moyers subsequently I carried the letters of administration and told him that now we stood on legal ground and could talk business.

Q. Did you ever state to Mr. Moyers that Mr. Cummings had received an assignment at any time from George B. Edmonds? A. No, sir, that never entered my mind. I never heard Mr. Cummings intimate anything of that sort or shape. The assignment was from Judge Edmonds, his brother.

Q. The point is did you ever make a statement to Col. Moyers that Mr. Cummings had an assignment from George B. Edmonds? A. Never. No, sir, no. Mr. Moyers is mistaken on that point.

Subscribed and signed for the witness by me by consent and agreement of counsel this — day of — 1900.

— — —, Examiner.

MAY 22, 1900.

DEAR SIR: I have continued my search as far as my time would permit, but have not yet found the papers in the Edmonds matter. The papers are old and dusty and it is a tedious & disagreeable task. I am sure the transaction was some time in the year 1890. I will unearth the papers as soon as I can as they are neither lost or destroyed.

Yrs truly,

G. W. Z. BLACK.

E. L. Wilson, Esq., Fendall building, city.

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COMPLAINANT'S EXHIBIT IN REBUTTAL No. 1.

Filed May 22, 1900.

A. B. Richardson, M. D., superintendent.

Government Hospital for the Insane. H.

WASHINGTON, D. C., *March 3rd, 1900.*

Messrs. Davis & Tucker, Washington Loan & Trust building,
Washington, D. C.

GENTLEMEN: In reply to your letter of inquiry of the 28th instant, I have to state that George B. Edmonds was under treatment in this hospital, from August 3rd, 1893, to September 9th, 1893, suffering with chronic dementia for one year's duration on admission, cause by apoplexy; and was discharged as improved.

The foregoing information is given with the understanding that it is not to be used as evidence in the prosecution of any pension or other claim against the U. S. Government.

Very respectfully,

A. B. RICHARDSON,
Superintendent.

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COMPLAINANT'S EXHIBIT IN REBUTTAL No. 2.

Law offices of Davis and Tucker.

WASHINGTON, D. C., *March 17, 1900.*

Superintendent Soldiers' Home, Hampton, Virginia.

DEAR SIR: We are informed that one George B. Edmonds was an inmate of the Soldiers' Home at Hampton, Virginia, some time during the years 1891 and 1895, and we desire to ascertain whether this be true. Will you kindly advise us whether your records show that Mr. Edmonds entered the home and if so, the date of such entry and the date of his discharge.

This information is not sought for the purpose of establishing, nor will it be used in anywise to establish any claim against the United States, but is to be used only in a suit by the administrator of Mr. Cummings against an individual in this city, to collect a debt due the estate of Mr. Edmonds.

Thanking you in advance for your courtesy, we are

Very truly yours,

DAVIS & TUCKER.

(Endorsed:) Southern branch National Home for D. V. S., Mar. 19, 1900, Respectfully returned Davis & Tucker Washington Loan & Trust building, Washington, D. C. with information that the records of this office show that Geo. B. Edmonds was admitted to this home July 27, 1889; & discharged from same — his own request, February 5, 1890. By direction — the governor A. A. Hager, adjutant H.

Law office of Gilbert Moyers.

WASHINGTON, D. C., *May 26, 1899.*

H. S. Cummings, Esq., 1416 F St. N. W., city.

DEAR SIR: Enclosed I hand you check for \$112.50 on account of Mr. Hill's assignment of his interest in the Throckmorton fee.

As to the cases of Mr. Edmonds which I have in charge, as I advised you recently I have advanced him considerable money and besides have incurred heavy expense in the prosecution of claims rejected as well as in those allowed. I have not had time to make up the account yet, but will do so just as soon as I have an opportunity. The contests I have for my fees in different cases occupy nearly all of my time, in fact my clients are acting very badly. Please acknowledge receipt.

Yours truly,

GILBERT MOYERS.

Enc.

Office of High & Stone, dealers in general merchandise.

TUPELO, Miss., *Apr. 9th, 1886.*

Geo. B. Edmonds, Esq., Washington, D. C.

DEAR SIR: Your favor of 21st Jan., with circular &c. has been received. I am the original claimant in whose name the claim was filed as you will find it in the department, and as I have already been at some expense in the preparation & filing of the claim I am anxious to realize something from it.

I accept your proposition and hope you will prosecute the claim for me to the best advantage.

Very truly,

SUSAN MERRILL.

Envelope addressed :—

GEO. B. EDMONDS,

Attorney at law,

1810 K Street N. W.,

Washington, D. C.

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Order Referring Cause to Auditor.

Filed May 9, 1901.

In the Supreme Court of the District of Columbia, Sitting as an
Equity Court.

HORACE S. CUMMINGS, Administrator, etc.,
Complainant,
vs.
GILBERT MOYERS, Defendant.

} In Equity. No. 20802.

Upon consideration of the motion of the complainant herein filed on the 27th day of February, 1901, and of the answer of the defendant to the rule laid upon him by this court on the 15th day of January, 1901, to show cause why he should not be punished for contempt of court for his failure to obey so much of the order of the court passed on the twentieth day of June 1900, as required him, the said defendant, to deliver from the moneys theretofore collected by him on account of the fees paid by the claimants in the partnership claims described in the bill of complaint herein, the sum of nine thousand dollars (\$9,000) and also upon consideration of the affidavits filed by the respective parties in support of said motion and of said return, and after argument by counsel for said parties, it is by the court this 9th day of May, 1901, ordered that said motion be and the same is hereby granted; and that in the matter of said alleged contempt the cause be and it is hereby referred to the auditor of this court for an examination of said defendant upon written or oral interrogatories to be exhibited or propounded on behalf of said complainant, and for the taking of such further proofs

before the auditor as either party may deem proper to produce, all of said testimony and proofs to be returned to this court with the report of said auditor thereupon.

And said auditor, after said examination shall be made and said proof, if any, shall be taken, is hereby directed to report to the court the gross amount of money collected by the defendant on account of fees in each and every of the claims mentioned and described in Exhibit No. 1, attached to the bill of complaint herein and in the tenth paragraph of said bill, and what, if any disposition has been made by said defendant of said money; and if it shall appear that said money or any part of it, or any money with which said money collected as aforesaid on account of said fees, may have been commingled by said defendant; or was invested by said defendant in any property, security or securities; or that it was used in the purchase of any real or personal property, or in the payment of any indebtedness or indebtednesses upon any real or personal estate owned by or in the possession and control of said defendant, all facts in relation

thereto, shall be ascertained and reported to the court by said auditor.

And it is further ordered that the said defendant be and he is hereby directed to submit himself to said examination within five days after the passage of this order, and that upon the conclusion of said examination the complainant shall have ten days within which to produce other or further testimony in the premises; and that after the conclusion of the complainant's testimony, the defendant shall have ten days within which to reply thereto, and that complainant shall have five days within which to take testimony in rebuttal after the defendant shall have closed his testimony.

A. B. HAGNER,
Asso. Justice.

Report of Auditor.

Filed June 29, 1901.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, &c., vs. GILBERT MOYERS.	No. 20802. Equity, Docket 47.
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This cause is referred to me to ascertain and report to the court the gross amount of money collected by the defendant on account of fees in each of the claims described in Exhibit No. 1, attached to the bill of complaint; whether any disposition has been made by said defendant of said money, and if it shall appear that said money, or any part of the same, collected by said defendant may have been commingled, whether it was invested in any property or securities, or was used in the purchase of real or personal property or in payment of any indebtedness upon real or personal estate owned by, or in the possession and control of said defendant, to report all facts in relation thereto. After due notice I proceeded with the reference and return herewith the testimony and exhibits submitted in proof.

In the schedule herewith I have stated an account of the fees collected by the defendant as directed by the order of reference.

The proof establishes the following facts as to the disposition, commingling, and investment of these moneys. The greater portion was deposited from time to time in bank with other moneys of the defendant, from which moneys so commingled certain sums were drawn out and used for the purposes hereinafter named, while 389 other and smaller portions of the said moneys were placed in the safe or pocket of the defendant and there commingled with other moneys and used in common with the same for various purposes.

On the 8th of May, 1899, the said defendant had received fees in the cases specified in the decree, aggregating the sum of \$18,321.48.

On that day he paid out the sum of \$11,868.25 in discharge of incumbrances covering lot 56 in square 988 which was the residence property of the defendant; also a parcel of unimproved property located at the corner of Eighth street and Massachusetts avenue, northeast, which was the property of Mrs. Moyers. In this connection I note that in June 1900, the parcel first named as the residence property was conveyed by Moyers to his wife.

At some date not definitely fixed in the proof, but subsequent at least to the collection of the fees in the Fitzhugh case, amounting to \$7,952.73, the defendant paid off an indebtedness of \$7,000.00 on property located in Maryland near the town of Bladensburg and described as the Carlton Mill property; he also expended on the same property about \$3,000.00 exclusive of \$1,100.00 or \$1,200.00 expended specially on the mill race and dam.

In March 1899, or prior thereto, the defendant was the owner of lots numbered 13 to 17 inclusive, in square 714, and subsequently to the 17th of March, 1899, he improved these lots by the construction of a number of buildings at a cost of about \$11,000.00.

This property in square 714 and the property described as the Carlton Mill property are still owned by the defendant.

390 It is evident from the facts disclosed in proof that the moneys collected by the defendant on account of fees in the claims described in Exhibit No. 1, attached to the bill of complaint were commingled with other funds from which the defendant paid off the indebtedness upon the Carlton Mill property and paid for the improvements made upon that property, and also paid the cost of construction of the dwellings or buildings on lots 13 to 17 inclusive, in square 714.

JAS. G. PAYNE, Auditor.

Fee	20
Testimony	18

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SCHEDULE.

Account of Fees Collected by the Defendant in Claims Described in the Tenth Paragraph of the Bill of Complaint and in Exhibit No. 1, Attached to the said Bill.

1899.

March 17. Claim of S. Fitzhugh administrator:

Gross fee.....	9,950.23
Expense	1,997.50

Net fee.....	7,952.73
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April 8. Claim of S. Bagnall, administrator,.....	348.25
19. Richard Butler.....	61.00
19. Jasper Gall	352.00

20. Anna Hunt, administratrix :

Gross fee.....	9,722.50
Expense.....	115.00

.....	9,607.50
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23. Claim of J. Hornbaker.....	146.25
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June 1. Claim of J. Harding, administrator:	
Gross fee.....	970.00
Expense	15.20

.....	954.80
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7. Claim of W. Williams, administrator.....	118.00
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SCHEDULE.

Account of Fees Received—Continued.

1899.

June 17. Claim of Mrs. H. E. Ladd :

Gross fee	492.50
Expense.....	35.70

.....	456.80
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17. Claim of N. K. Thornton.....	335.00
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19. Claim of W. R. Welborn.....	100.00
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26. Claim of J. G. Tappan, administrator.	1,050.00
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July 10. Claim of J. P. Davidson.....	457.50
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Aug. 4. Claim of Henry T. Cate :	
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Gross fee.....	417.50
Expense.....	10.00

.....	407.50
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10. Burgwyn administrator	68.75
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1900.

[Jan. 25.] Claim of William T. Fauber.....	150.00
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.....	\$22,566.08
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JAS. G. PAYNE, Auditor.

393-411

Order Cancelling Bond, &c.

Filed November 25, 1901.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, }
vs. } No. 20802, Equity Docket.
GILBERT MOYERS. }

Upon motion of the defendant, and complainant by his counsel consenting thereto, it is this 25th day of November, 1901, ordered that the bond heretofore given by the defendant Gilbert Moyers and the Fidelity and Deposit Company of Maryland as a supersedeas upon the appeal of the said Moyers from an order of the court passed herein on June 20, 1900, be and the same is hereby vacated and cancelled, and the obligators thereon released from all liability thereunder.

By the court:

A. B. HAGNER,
Asso. Justice.

We consent.

DAVIS & TUCKER,
Counsel for the Complainants.

* * * * *

412

Certified Copy of Treasury Warrant, &c.

Filed June 7, 1902.

Miscellaneous division.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY, WASHINGTON, June 6, 1902.

25912

60-EK

The clerk of the supreme court of the District of Columbia, Washington, D. C.

SIR: I have to acknowledge the receipt of an order of the supreme court of the District of Columbia, entered in the case of Horace S. Cummings, administrator, vs. Gilbert Moyers, in equity No. 20,802, requesting copy of warrant No. 184, issued July 12, 1899, to John Ehs, and statement showing to whom the said warrant was delivered.

In compliance with the request, find herewith certified copy of the warrant, and certified statement of the Treasurer of the United States that the warrant was delivered to Gilbert Moyers by C. N. Wilson.

Respectfully,

H. A. TAYLOR,
Assistant Secretary.
L. J.

413

Filed June 7, 1902.

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT, *June 6, 1902.*

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed is a true and correct copy of the original on file in this department.

In witness whereof, I have hereunto set my hand, and
[SEAL.] caused the seal of the Treasury Department to be affixed,
on the day and year first above written.

L. M. SHAW,
Secretary of the Treasury.
L. J.
S. M. G.

414

Copy.

No. 184.

Warrant.

Treasury.
Settlement.
M Y M

UNITED STATES TREASURY DEPARTMENT,
WASHINGTON, D. C., *July 12, 1899.*

To the Treasurer of the United States:

Pay to Jones S. Hamilton—adm'r of John Ehs, dec'd—or order six hundred twenty-seven dollars, \$627.00

C W M

H. A. TAYLOR,
Assistant Secretary.

Countersigned

R. J. TRACEWELL,
Comptroller.

The Treasurer, U. S. Washington, will pay this warrant.

ELLIS H. ROBERTS, *Treasurer.*

By C. M. FOREE,
Chief Clerk.

Certificate No. 52,562.

C. A. B.

P. O. address, care Gilbert Moyers, att'y.

Endorsed.

The indorsement of this warrant must be technically and legally perfect or the officer on whom it is drawn will refuse payment thereof.

Indorsements by mark (X) must be certified to by two witnesses, giving their places of residence.

Pay to the order of National Metropolitan Bank, Washington,
D. C.

415 THE NATIONAL PARK BANK OF
 N. Y.
 GEO. S. HICKOK, *Cashier.*
 EDW. J. BALDWIN, *A. C.*
 JONES S. HAMILTON,
 Adm'r John Ehs, Dec'd, Estate.
 NATIONAL METROPOLITAN BANK.
 J. GALES MOORE, *Ass't Cashier.*

Aug. 8, 1899, Washington, D. C.

Pay National Park Bank, New York, or order

CAPITAL STATE BANK, JACKSON,
MISS.
E. M. PARKER, *Cashier.*
E. M. PARKER, *Cash'r.*

416 E. H. R. UNITED STATES OF AMERICA,
 TREASURY DEPARTMENT, *June 6, 1902.*

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed writing is a true copy of receipt for Treasury warrant No. 184 under date of July 13, 1899, given by Gilbert Moyers by C. N. Wilson, the original of which is on file, in this department.

[SEAL.] In witness whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

T. L. M. SHAW,
 Secretary of the Treasury.
 L. J.
 S. M. G.

417 Treasury Department,
 Treasurer's Office.—Accounts.
 Form 762.—3-8-'99-2 vols.

Receipts for Treasury Warrants.

Date of delivery.	Description of contents.	By whom received.
1899. July 13	184.	Gilbert Moyers by C. N. Wilson.

[SEAL.]

Report of Auditor.

Filed August 20, 1902.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of the)
 Estate of George B. Edmonds, Deceased,) No. 20802. Equity.
 vs.
 GILBERT MOYERS.)

On the 13th of June 1900, the court passed a decree in this cause adjudging as follows, "That a special partnership existed between the complainant's intestate, George B. Edmonds, and the defendant, Gilbert Moyers, created by the partnership agreement described in the fourth paragraph of the bill of complaint in the above entitled cause, and that said partnership related to the prosecution of the claims mentioned and described in a schedule or list of claims, which was therein referred to as attached to the said partnership agreement."

"That the complainant, as administrator of the said decedent, George B. Edmonds, is entitled to an accounting with the defendant of all partnership dealings and the transactions between the defendant and said decedent after the date of the said partnership agreement of February 6, 1888, and to recover from the said defendant the balance of money shown to be due from said defendant upon such accounting."

The decree then refers the cause to me "to take an account of said partnership dealings and transactions commencing with the 6th day of February, 1888, showing the sum or sums of money collected by the said defendant, and by the said George B. Edmonds

419 (if any were so collected by him) from time to time on account of said partnership agreement; and to ascertain the sum or sums of money so collected by said defendant, and by the said George B. Edmonds, if any, on account of the fees paid by the claimants, and the amount of the fees which were actually paid by them, and the person or persons to whom they were so paid; the sum or sums of money, if any, paid by the said defendant to the said decedent during the lifetime of said decedent on account of the interest of said decedent in said partnership business; and to report fully the state of the partnership account between the said decedent, or his estate, and the said defendant, the said account and report to be taken and made upon the testimony now in the said cause, with such other and further testimony as may be adduced by the parties thereto."

The decree thus limits the accounting to such claims as were included in the schedule or list of claims which is referred to in the bill of complaint as attached to the said partnership agreement. That agreement is in the following terms, "Agreement. Know all men by these presents, in duplicate, that the undersigned, attorneys of Washington, D. C., are special partners in the prosecution of the cases named in the schedule hereto attached, now pending before the United States Court of Claims and the Congress of the United States, the fee agreed to be paid by the client in each case being the per centum of whatever may be recovered as is stated herein, and the agreement between the undersigned being that each shall have half

420 of said fees and that each shall pay one half of the expenses incident to the prosecution of the same, which expense is not to exceed two and a half per cent. of the amount that may be allowed upon said claim. And it is hereby agreed and understood that the said Gilbert Moyers shall represent and be associated with me in the prosecution of said claims before the Court of Claims and the Congress of the United States as joint attorney of record. It is hereby understood and agreed that the undersigned Gilbert Moyers is to advance the expenses incident to the prosecution of said claims."

The complainant filed with his original bill a list marked "Complainant's Exhibit No. 1," of cases which he avers were included in the schedule attached to the said agreement and which were prosecuted to judgment and the fees therein collected by the defendant.

The defendant in his answer denies that either of the cases enumerated in the said exhibit to the bill were among those attached to the said partnership agreement, excepting only the cases in which J. C. Tappan and S. Fitzhugh, administrators, respectively were claimants.

The decree of the court finds that there was a schedule or list of claims the prosecution of which was the subject and purpose of the partnership and which was referred to in the said agreement of partnership as attached thereto.

In the taking of the proof of this cause the complainant produced a document made up of one sheet containing what purports to be

one of the duplicate originals of the partnership agreement and nineteen attached sheets containing names of parties, and testifies that the said paper or series of papers was delivered to him by a brother of the decedent Edmonds (who received them from the said Edmonds) about the year 1892, and that the entire list contained in the said papers was made by the said Edmonds in his own handwriting. This document was offered in evidence as the original agreement of partnership and the schedules referred to therein as being thereto attached, and is marked "Exhibit H. S. C. # 1."

The defendant notwithstanding the admissions of his answer, testifies that he never saw this list of cases until after this controversy commenced, that there was no schedule attached to his duplicate of the agreement, that no schedule of cases transferred by Edmonds to him was furnished to him at the time of signing the contract, and that he, Moyers, never did know what Edmonds claimed he turned over to him.

In the reference the defendant presents a list of claims in which he states that Edmonds was interested. This list is filed and marked Auditor's Exhibit B.

The complainant in his bill and the exhibit thereto, sets forth twenty-one cases which he asserts were included in the said schedule referred to in the agreement as being attached thereto, and in which allowances have been made and the fees collected by the defendant.

In this reference the complainant presents five additional cases which he asserts were included in the said schedule and agreement, and in which judgments were obtained and fees collected by the defendant.

Apart from the evidence relating to the identity of the schedule or list of cases referred to in the partnership agreement, the proof submitted in this reference relates mainly and directly to the cases specifically mentioned in the bill of complaint and the accompanying exhibit, and to the five additional claims or cases presented by the complainant. In the condition of the controversy over the identity of the schedule referred to in the agreement, and of the proof furnished as relevant to that issue, I shall not undertake to determine for the purpose of this reference, that controversy as a whole, and will limit my examination and findings to the specific cases which the complainant set forth in his bill or in the proceedings here as the subject of this accounting.

In all these cases jackets are produced here which were found among the effects of Edmonds after his death and containing powers of attorney to him, contracts with claimants and other papers relating to the specified claims. These documents, being identified, were submitted and received in evidence.

In the course of the proceedings here the defendant filed a statement of account which is marked "Exhibit D," in which he concedes the right of Edmonds to a share of the fees in three cases, that of Henry Fitzhugh, Nathaniel K. Thornton and Wm. R. Wellborn

and claims credit for costs and expenses alleged to have been incurred in the prosecution of these claims and a large number of others which had either been dismissed or were still pending in the Court of Claims.

Taking up the cases referred to in the bill of the complainant and specified in the schedule herewith, I find the facts to be as follows:

Claim of Henry L. Cate.

In this case the power of attorney of the claimant to George B. Edmonds, dated Feb. 20, 1886, is produced and established by the proof, as is also an agreement by the claimant with the said Edmonds dated Feb. 25, 1886, specifying the fee to be paid and received

for the prosecution of the case contingent upon success. The 423 defendant Moyers appears as attorney of record in the Court of

Claims and produces here a power of attorney from the claimant dated Jan. 27, 1888, about two years subsequent to the power of attorney to Edmonds and the agreement of the claimant with him as to the fee. This case was referred by Congress to the Court of Claim on the 4th of February, 1886, upon the petition which is filed in this case as Exhibit H. T. C. # 1" and is shown to be in the handwriting of Edmonds. Upon the proof so submitted in the reference I find and report that this claim was one of the partnership cases.

Claim of J. C. Tappan, Administrator.

In this case the docket of the Court of Claims and that of the defendant, Moyers, both establish it as one of the partnership cases and it is now conceded by the defendant that such is the case.

Claim of Richard Butler.

In the course of the reference the defendant admitted this to be one of the partnership claims.

Claim of John B. Davidson.

The record of the Court of Claims shows the appearance of the plaintiff and defendant as attorneys in this case, and the evidence is conclusive that this was one of the partnership claims. At the time of the filing of the bill this claim was not appropriated for, but such appropriation has since been made.

Claim of Samuel Bagnall, Administrator of Brayboy.

An agreement between Page Brayboy, the original claimant and George B. Edmonds, dated February 4, 1886, is produced 424 and filed in this reference, its general character being established. The defendant appears on record in the Court of Claims as attorney on the fourteenth of March, 1890.

I find this claim also to be covered by the partnership agreement.

Claim of R. M. Johnson, Administrator of Samuel Heard.

The proof establishes the fact that Edmonds was connected with the case in the capacity of attorney in March, 1886, having at that time an agreement fixing the fee to be received by him contingent upon the success of the case. The defendant appears to have filed a petition in the claim in May, 1887.

I find that the proof establishes this as one of the cases included in or covered by the partnership agreement.

Claim of Annie Hunt.

The evidence shows that Edmonds was employed as attorney in this claim as early as May or June 1886, and had a fee agreement, which is produced here, dated June 1, 1886. The defendant's first appearance in the case is in October, 1888.

I find this claim to be also covered by the partnership agreement.

Claim of Hattie E. Ladd

The connection of Edmonds with this claim first appears in a power of attorney to him dated April 28, 1886. He also had a fee agreement of the same date as the power of attorney and both the defendant and Edmonds appear as attorneys upon the records of the Court of Claims.

This case undoubtedly, is covered by the partnership agreement.

425 *Claim of Jas. Harding, Administrator of J. H. Maury.*

The evidence proves the connection of Edmonds with this claim as early as April 1886, and an agreement with him for the fee is filed, dated April 20, 1886. The defendant appears in the Court of Claims in the cause, in 1890, and produces a fee agreement dated September 7, 1896. I find this case to be covered by the partnership agreement.

Claim of Wilson W. Williams, Administrator.

The connection of Edmonds with this claim is shown to be as early as October, 1886, with an agreement relating to the fee bearing date of the 16th of that month.

The evidence clearly establishes this as a partnership claim but the defendant asserts in testimony that he paid a portion of the fee to one H. K. Martin, a local attorney of Mississippi. The evidence in regard to this assertion is not definite or satisfactory. I have, however, reported the amount of the fee for which the defendant is accountable as set forth in the annexed schedule, as nearly as it could be ascertained in the condition of the proof.

Claim of N. K. Thornton.

This case is established as a partnership claim by the evidence submitted upon both sides.

Claim of Samuel Fitzhugh.

This case is also established as a partnership claim by all the evidence here.

Claim of J. R. Hornbaker.

426 It appears from the proof that Edmonds was connected with this claim as early as March, 1886, having a fee agreement bearing date the 10th of that month. The defendant, as attorney, filed a petition in the Court of Claims in this matter on the 12th of May, 1894.

I find this claim to be included in or covered by the partnership agreement.

Claim of Susan Merrill.

A fee agreement signed by Susan S. Merrill, dated April 20, 1886, also reciting that she has engaged George B. Edmonds as her attorney to prosecute this claim is filed here as an exhibit. Also a letter from Edmonds to the defendant dated July 10, 1891, referring to this claim and the judgment thereon and asking the defendant to purchase his, Edmonds' interest or his share of the fee to be received in the case. Upon this letter there appears an indorsement in the handwriting of the defendant stating in reply to Edmonds that he, Moyers, could do nothing "until payment is resumed by the Government." This endorsement is dated July 14, 1891. I find this case to be covered by the partnership agreement.

The following claims included in the bill of complaint and the schedule therewith, according to the evidence furnished in this reference, were claims prosecuted to judgment and the fees received by other attorneys, the defendant, Moyers, having no interest as attorney in the said cases and having received no part of the fees.

C. Ubele, administrator.

T. W. Russel.

M. C. Baylor.

427 J. L. Roberts.

George Show.

With reference to the claim of John Ehs also included in the bill of complaint and schedule, it appears in the proof here that the warrant issued by the Government for the amount of the judgment or finding of the Court of Claims was sent directly to the claimant and that the defendant did not collect or receive any fee therein.

In the schedule herewith I have stated the fees received by the defendant in the several cases herein enumerated, and also an allowance from such fees of the costs incurred by Moyers in the taking of depositions and filing of briefs in the Court of Claims. In the statement of account filed by Moyers in this reference and marked "Exhibit D," he has set forth items of expense alleged to have been incurred by him in connection with the three cases of Fitzhugh, Thornton and Wellborn, cases in which the right of the complainant's intestate is conceded. He also sets forth in the same account other considerable items of expense alleged to have been incurred by him in the prosecution of cases not included in the schedule attached to the bill of complaint, these alleged expenses consisting of fees paid at various points for taking of testimony, payments to local attorneys or assistants, travelling expenses and hotel bills and office expenses, and it is contended that in this accounting he, Moyers, is entitled to allowance by way of credit for all of these expenses said

to be incurred in cases which Moyers states he received from
428 Edmonds and in which there has been no recovery, the cases
being either dismissed by the court or are still pending.

In this connection, it will be remembered that by the partnership agreement the defendant undertook to advance the expense incident to the prosecution of the partnership claims and that such expense should not exceed two and one half per cent. of the amount that might be allowed on the said claim. I think a fair interpretation of this agreement is that each claim should be settled between the partners promptly upon the receipt by Moyers of the attorney's fee and such settlement should include the expense advanced by Moyers under the terms and limitations of the partnership agreement. Holding these views, I have declined to make any allowance in this account for the expense said to have been incurred in the prosecution of cases other than those set forth in the account herewith.

There are, however, other objections suggested by counsel for complainant and which seem to be substantial. The defendant

conceded that the cases enumerated in the said account marked Schedule D, filed by him, were cases received from Edmonds and from the time of the making of the partnership agreement Moyers was bound to recognize these as partnership cases and to perform in connection with them, the ordinary and necessary duties of a partner having the common business in charge, in the way of keeping correct and complete records and accounts. No such records or accounts so kept are produced in this reference and no sufficient excuse made for their non-appearance. The testimony of Moyers is indefinite and unsatisfactory so far as it relates to these alleged expenditures and is not, in my judgment, sufficient to warrant
429 an allowance of any portion of these expenses in this accounting, even if I were of the opinion that any allowance would be proper under my interpretation of the contract provision.

One witness was produced by the defendant who testified that he had examined certain records and proceedings in a number of claims set forth in the said Exhibit "D," estimating the cost of the taking of depositions and the filing of briefs from such information as the court records afforded, and Moyers testified in a general way that he had paid the amounts charged by him. With reference to the cost of briefs, it is testified here that a rule of the Court of Claims allows a certain amount per page for the type-writing or printing of briefs. In connection with the testimony of the witness above referred to, as to the cost of briefs in this case, it may be noted that the proof here is still destitute of any sufficient showing that the cost of filing these briefs was paid for outside of the regular office work of the defendant.

At the close of the evidence in this reference the subject matter in controversy was argued by counsel and submitted. In my examination then, of the evidence taken before the examiner and in this reference, I discovered that no evidence had been offered by the defendant as to the expense incurred in each of the cases enumerated in the bill of complaint excepting the three which were admitted by the defendant in the Exhibit "D" and I then called upon the counsel for the defendant to take the opportunity which I granted, to supply this omission, if it could be done. Thereafter some testimony was offered of a witness who had also examined the records
430 of the Court of Claims and who made a statement of the contents of the depositions on file, as well as of the briefs filed, applying thereon the price fixed by the rule or practice of that court, and in the cases in which this testimony was furnished I allowed credit for these expenses.

The defendant claims allowance of the alleged cost of expense incurred by him in securing appropriations from Congress for the payment of claims. This contention is made in the three cases conceded in the Defendant's Exhibit "D" to be partnership claims and the items described as "percentage of expense in securing appropriations."

This claim of credit is of a character which I do not feel justified
27-1361A

in reporting as allowed. In addition to its objectionable character I do not find the proof sufficiently definite as to the amounts expended by the defendant for the purpose of securing the appropriation or as to the necessity for such payments.

Another claim of credit is under the head of "office expenses" which is also made in the three conceded cases contained in Exhibit "D."

I do not find the proof relating to this claim sufficiently definite or satisfactory to justify the allowance of credit.

The annexed Schedule A, shows the amount of fee received by Moyers in each of the cases, and in determining the amount so received, I have in cases where the evidence on that point is either conflicting or uncertain given the defendant the benefit of any doubt. Aggregating the sum of said fees, I have divided the 431 result by two, crediting the complainant with one-half, against which I have stated in detail the amount of moneys paid by the defendant to Edmonds, as testified to by the defendant from recollection and from entries contained in small books called "dairies" produced by the defendant in connection with his testimony and filed in the reference.

Schedule B contains an itemized statement of these payments by dates and amounts with such additional words as appear in the entries in the diaries referred to.

Allowing credit for these payments, Schedule A shows balance owing by the defendant to the complainant with interest from September 16, 1899, the date of filing of original bill.

JAS. G. PAYNE, Auditor.

Auditor's fees and testimony paid by plaintiff, 279.00.

JAS. G. PAYNE.

432 After the preparation of the foregoing report, counsel for the complainant, upon notice to the counsel for the defendant, filed here a communication from the Treasury Department enclosing a copy of the draft or warrant issued in the claim of John Ehs, and requested that the said claim be included in this report and account. The warrant, on its face is payable to the order of the administrator of John Ehs, deceased, and is for the sum of Six hundred and twenty-five dollars. The draft, or warrant, bears upon its face the following note: "P. O. address, Care Gilbert Moyers, att'y."

The communication of the department also included an extract from the record, entitled, "Receipts for Treasury warrants," the extract showing that such warrant was delivered on the 13th of July, 1899, and received by Gilbert Moyers by C. N. Wilson."

Upon the proof so furnished, I have added in Schedule A this claim, the allowance of the claim being \$627.00, and the fee 50 per cent. of the amount, of which the complainant is entitled to one-half, upon the basis of my report.

JAS. G. PAYNE, Auditor.

433

SCHEDULE A.

Gilbert Moyers in account with Horace S. Cummings, administrator of George B. Edmonds.

DR.

To fees collected in partnership claims as follows:

Henry T. Cate:

Amount of fee.....	\$417.50
Less cost of deposition and briefs.....	14.60
	—
	\$402.90

J. C. Tappan, administrator:

Amount of fee.....	1,052.50
Less for depositions and briefs.....	12.00
	—
	1,040.50

Richard Butler:

Amount of fee.....	61.00
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John P. Davidson:

Amount of fee.....	457.50
Less depositions and briefs.....	35.28
	—
	422.22

W. R. Wellborn:

Amount of fee.....	100.00
Less for briefs, etc.....	10.00
	—
	90.00

Schedule A Continued.

434 Jasper Gall:

Amount of fee.....	\$352.00
Less for depositions and briefs.....	14.65
	—
	337.35

Samuel Bagnell, administrator of Braboy:

Amount of fee.....	348.25
Less for briefs.....	11.75
	—
	336.50

R. M. Johnson, administrator:

Amount of fee.....	1,052.50
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Annie Hunt, administratrix :

Amount of fee.....	9,722.50
Less for depositions and briefs.....	59.80
	<hr/>
	9,662.70

Hattie E. Ladd :

Amount of fee.....	492.50
Less for depositions and briefs.....	19.95
	<hr/>
	472.55

Jas. Harding, administrator :

Amount of fee.....	970.00
Less for depositions and briefs.....	36.75
	<hr/>
	933.25

Schedule A Continued.

W. B. Williams, administrator :

Amount of fee.....	\$113.50
Less for depositions and briefs	27.20
	<hr/>
	\$86.30

N. K. Thornton :

Amount of fee.	385.00
Less for depositions and briefs.....	16.10
	<hr/>
	318.90

Samuel Fitzhugh, administrator :

Amount of fee.....	9,987.50
Depositions and briefs.....	179.40
Paid W. A. Little.....	1,997.50
	<hr/>
	2,176.90
	<hr/>
	7,810.60

J. A. Hornbaker :

Amount of fee.....	165.00
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J. A. Burgwyn, administrator :

Amount of fee.....	78.75
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William F. Fauber :

Amount of fee.....	150.00
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Susan Merrill :

Amount of fee.....	407.50
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Schedule A Continued.

Total net fees.....	\$23,828.57
To the complainant, one half.....	11,914.29

CR.

By payments to George B. Edmonds, as per Schedule B. 1,470.00

\$10,444.29

Claim of John Ehs:

Amount of fee received by the defendant.....	313.50
Share of George B. Edmonds.....	156.75

Amount due the complainant on this accounting.. \$10,601.04

JAS. G. PAYNE, Auditor.

437

SCHEDULE B.

Itemized Statement of Payments by the Defendant to the Complainant's Intestate.

January	2, 1889.....	\$10.00
February	8, "	5.00
"	24, "	15.00
March	29, "	10.00
April	11, "	10.00
"	16, "	5.00
May	8, "	15.00
June	5, "	25.00
"	23, "	10.00
September	23, "	5.00
November	4, "	10.00
"	20, "	20.00
January	10, 1890.....	20.00
March	15, "	10.00
"	21, "	15.00
November	6, "	40.00
June	2, 1891. Loaned.....	25.00
"	8, " Advanced.....	50.00
August	25, "	25.00
November	28, " Loaned.....	10.00
December	5, "	20.00
"	8, " Loaned.....	15.00
"	10, " Loan check.....	30.00
"	24, " Loaned.....	25.00
January	17, 1892. Loaned check.....	50.00
"	20, " " "	25.00
February	9, "	30.00

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Schedule B Continued.

March	14, 1892.	Loaned.....	\$10.00
April	8,	" check.....	100.00
"	27,	"	30.00
May	7,	"	50.00
"	19,	"	50.00
June	11,	"	20.00
"	18,	"	25.00
"	21,	Paid.....	25.00
"	29,	Loaned.....	40.00
July	11,	"	10.00
"	23,	"	15.00
August	1,	"	500.00

Added to account.

December	19, 1891.....	50.00
July	30, 1892.....	15.00
		\$1,470.00

JAS. G. PAYNE, *Auditor.*

439

Defendant's Exceptions to Auditor's Report.

Filed September 19, 1902.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, Complainant,
vs. GILBERT MOYERS, Defendant. } No. 20802. Equity.

Comes now the defendant, by his counsel, and excepts to the report of the auditor filed herein August 20, 1902, because he says the auditor erred:

1. In not determining if the schedule of cases presented by the complainant and attached to one of the duplicate originals of the partnership agreement was or was not the schedule referred to in such partnership agreement.
2. In not holding that such schedule is a false schedule, and not admissible against the defendant.
3. In not failing to determine what were all the cases involved in the special partnership, and in limiting his report and audit to the twenty-one cases mentioned in the bill of complaint and five additional cases presented by the complainant.
4. In declining to make an allowance to the defendant for ex-

penses incurred by him in the prosecution of partnership cases other than those set forth in the account attached to said report.

5. In refusing to credit to the defendant for expenses incurred by him in payment of fees of counsel employed to secure appropriations by Congress for the payment of claims in which the special partnership was interested.

6. In refusing the defendant credit in said account for the item of office expenses.

7. In holding that the claim of Henry L. Cate was a partnership case and that the complainant is entitled to part of the fee therein.

8. In holding in like manner as to each of the following claims, to-wit.

John B. Davidson,
Samuel Bagnell, administrator of Braboy,
R. M. Johnson, administrator of Samuel Heard,
Annie Hunt,
Hattie E. Ladd,
James Harding, administrator of J. H. Maury,
Wilson W. Williams, administrator,
Samuel Fitzhugh,
J. R. Hornbaker,
Susan Merrill,
John Ehs,
J. A. Burgwyn, administrator, and
William F. Fauber.

A. A. BIRNEY,
Counsel for Defendant.

441 *Complainant's Exceptions to Auditor's Report.*

Filed September 20, 1902.

In the Supreme Court of the District of Columbia, Holding an Equity Court for said District.

HORACE S. CUMMINGS, Administrator }
of the Estate of George B. Edmonds, }
Deceased, Complainant, } In Equity. No. 20802.
 vs. }
GILBERT MOYERS, Defendant. }

Exceptions taken by the complainant to the report of the auditor of the court filed on the 20th day of August, 1902, said report having been made in pursuance of the decree made on the hearing of said cause on the 12th day of June, 1900.

1st exception. For that the said auditor hath in and by the said report and the Schedule A thereto annexed allowed to the said defendant by way of discharge various sums of money amounting together to

\$437.48, by way of alleged expenditures made by said defendant for depositions and briefs filed in the Court of Claims in the cases set out in said schedule; whereas the complainant submits that the said defendant is not entitled to and ought not to have been allowed such last mentioned credits for the following (among other) reasons:

(a.) Because the sums credited for briefs were not shown to have been actually expended by the defendant:

(b.) That it was not shown that said sums represented the actual cost of having said briefs typewritten.

442 (c.) That it was not shown that the expense of typewriting said briefs was not borne by the claimants;

(d.) That it was not shown that the defendant actually paid the commissioner's fees in the Court of Claims for taking the depositions in said cases;

(e.) That it was not shown that the claimants themselves did not bear the expense of taking the said depositions, or that said several sums credited for depositions were not deducted by the defendant from the sums appropriated by Congress to pay the several judgments rendered in said cases; and

(f.) That the defendant, as managing partner of the partnership firm of Moyers & Edmonds, prior to the death of said Edmonds, and as the surviving partner after the death of said Edmonds, having failed to keep books of account, or any accounts of his expenditures as such, is not entitled to credit for such expenditures in the absence of satisfactory evidence of such expenditures, and that said evidence has not been offered by him in the premises.

2nd exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$457.50, in the claim of John P. Davidson, whereas the evidence shows that he actually collected, or should have collected a fee of \$915.00 for the prosecution of said claim.

3rd exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$100, in the claim 443 of W. R. Wellburn, whereas the evidence shows that he actually collected, or should have collected a fee of \$125 for the prosecution of said claim.

4th exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$348.25, in the claim of Samuel Bagnell, whereas the evidence shows that he actually collected, or should have recollected a fee of \$497.50 for the prosecution of said claim.

5th exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$970, in the claim of James Harding, administrator, whereas the evidence shows that he

actually collected, or should have collected a fee of \$975 for the prosecution of said claim.

6th exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$78.75, in the claim of J. A. Burgwyn, administrator, whereas the evidence shows that he actually collected, or should have collected a fee of \$157.50 for the prosecution of said claim.

7th exception. For that the said auditor hath in and by his said report and said Schedule A annexed thereto charged the defendant with the receipt of an attorney's fee of only \$150, in the claim of William P. Fauber, whereas the evidence shows that he actually collected, or should have collected a fee of \$187.50 for the prosecution of said claim.

444 8th exception. For that the said auditor hath in and by his said general report and the Schedules A and B annexed thereto allowed to the said defendant by way of discharge various other sums of money amounting together to \$1470, by way of alleged payments to George B. Edmonds, deceased, during the latter's lifetime; whereas the complainant submits that the said defendant is not entitled to and ought not to have been allowed said last mentioned credits for the following (among other) reasons: (a) Because the only evidence in support of the alleged payments, loans and advances set forth in said Schedule B were alleged entries in certain diaries produced by the defendant, which said diaries should not have been admitted in evidence, first, because they were not such books of account or books of original entry as would be competent or admissible evidence to show payments by the witness to the decedent; second, because the identification of the entries by the witness involved his testifying to transactions with the decedent in contravention of sec. — of the Revised Statutes of the United States; and thirdly, because there was nothing in the entries themselves showing that the sums mentioned therein were advances upon the partnership account; (b) because, even if otherwise admissible, the entries in said diaries of date May 8, 1889, of \$15; of November 20, 1899 of \$20 and of August 25, 1891, of \$25 shows that such payments, if made at all, were made to one T. J. Healy and not to the decedent, and there is no evidence to show that that the said T. J. Healy was authorized by said decedent to receive said payments in his behalf, or that decedent ever actually received the same; (c) because the entries in

445 said diaries of date June 2, 1891, \$25; November 28, 1891, \$10; December 8, 1891, \$15; December 10, 1891, \$30; December 24, 1891, \$25; January 17, 1892, \$50; January 20, 1892, \$25; March 14, 1892, \$10; April 8, 1892, \$100; April 27, 1892, \$30; May 19, 1892, \$50; June 11, 1892, \$20; June 18, 1892, \$25; June 29, 1892 \$40; July 11, 1892, \$10; July 23, 1892, \$15, if admissible at all in evidence, show that said several sums were personal loans to said decedent by the defendant and not payments to him by the defendant on the partnership account, and the defend-

ant should not be allowed credit therefor in this partnership accounting.

DAVIS & TUCKER,
Sol'r for Complainant.

Motion to Open Report of Auditor.

Filed December 11, 1902.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, etc., }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

Comes now the defendant, by his counsel, and referring to a report made to the court on August 20, 1902, by the auditor of the court relating to certain cases found by the auditor to have been embraced in a partnership between complainant's decedent, Geo. B. Edmonds, and defendant, and stating an account between said Geo. B. Edmonds and defendant regarding these cases shows to the court

that in all of said cases a very large part of the labor
446 performed and the results accomplished were done after said

Geo. B. Edmonds ceased to have any interest in the same, and chiefly after his death and the dissolution of the partnership between him and the defendant, and that such subsequent labor was done and the results achieved by defendant alone, with such assistance as he found necessary to employ and for which he himself paid; but that in the investigation and report of the auditor no consideration is given to these facts. Defendant therefore moves the court to open the said report and account of the auditor and refer the same to him again with directions to ascertain the amounts of the compensation due to defendant, out of the fees collected in said cases, for the said labors and expenditures and to restate said account, giving defendant credit for such sums; his findings regarding the amounts of such compensation to be made from the evidence now on file in the case and such additional evidence as may be offered on this point.

BENJ. CARTER,
Solicitor for Defendant.

447

Cross-bill.

Filed December 19, 1902.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, etc.,
vs.
GILBERT MOYERS. } Equity. No. 20802.

The defendant, Gilbert Moyers, respectfully shows to the court the following stated facts:

1. After the formation of the special partnership between claimant's decedent, George B. Edmonds, and defendant, in which the matters complained of in this case originated, and while defendant was prosecuting the cases embraced in the same, he gave into the hands of George B. Edmonds numerous sums of money, aggregating \$1470.00, which sums are specifically set forth in an exhibit filed by defendant before the auditor of the court during the prosecution of the reference made by the court to him for the statement of an account between defendant and said decedent regarding the affairs of said partnership and they are reported by the auditor to the court in Schedule B, of his report to the court, which contains his statement of the account. Certain of these sums, aggregating \$560.00 although allowed by the auditor to defendant as credits, were considered and reported to the court by him as loans made by defendant to said George B. Edmonds, and not as payments made from the proceeds of or in any special reference to the business of said partnership.

2. In the prosecution of the cases embraced in said partnership defendant has necessarily incurred large expenses, and paid large sums for the taking of testimony, for fees to associate counsel, for the preparation of briefs and for other things which must be done in these Congressional cases, some of such expenditures having been made in the cases covered by the bill of complaint and said reference to the auditor and others being made in cases not covered by the bill or embraced in the reference to and report by the auditor; said expenses being stated in detail in exhibits filed by defendant before the auditor during the reference. The auditor in his report has given defendant credit for expenses of those cases alone which are named in the bill and embraced in said reference to him, allowing him nothing in reference to the other cases included in said exhibits.

3. Defendant refers to all of his exhibits filed before the auditor on said reference and asks that they may be read and treated as part hereof.

Defendant refers to — adopts as part of this bill (1) his answer to the bill of complaint, (2) his amendment to said answer, filed on May

23, 1900, (3) his supplemental answer to said bill, filed on May 26, 1900, and (4) his answer, filed on January 15, 1901, to rule to show cause why he should not be adjudged in contempt of court; and he prays that the whole may then be treated as a cross bill and that the court shall take cognizance of the matters of account between him and said George B. Edmonds generally, including those not included in the said account stated by the auditor and those 449 not embraced in said partnership in so far as they are embraced in the allegations hereof and of the pleadings already on file in the cause—and in its decree will give him the benefit of all indebtedness that shall be proved to exist from said George B. Edmonds to him by reason of the facts herein stated, as well as the facts heretofore pleaded in the cause.

GILBERT MOYERS.

Subscribed and sworn to before me this 19th day of December, 1902.

FRANCIS L. NEUBECK.

Service of copy of above bill acknowledged this Dec. 19, 1902.

DAVIS & TUCKER.

Report of the Auditor.

Filed February 3, 1903.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMONGS, Administrator of the Estate of George B. Edmonds, Deceased. No. 20802. Equity.

Statement of auditor.

During the progress of this reference, the defendant produced and submitted in evidence a large number of jackets containing papers and documents of various kinds purporting to relate to the claims or cases in controversy here. About the close of a hearing in the reference, some time during the summer of 1901, the complainant and his counsel, Mr. Tucker, were examining some of these office files on the large table in the main room of this office, and in my presence, and, I think, in the presence of the defendant and his counsel.

While examining the office files of the claim of Anna Hunt, Mr. Tucker handed me a paper which he had been examining, taken from among the office files of that case, with the request that I should place it in my safe, as its contents would show its importance as evidence. Before complying with his request I examined or read the paper, the writing of which is in substance correctly described in the testimony of Mr. Tucker. I then placed it in the envelope

and deposited it in my office safe. At a subsequent hearing the papers in the claim of Anna Hunt being needed, the said paper was by me taken from my safe and laid upon the table where the 451 counsel and parties were seated. After the close of that hearing I looked for the said paper for the purpose of again placing it in my safe, and found that it, together with other papers, were missing. As the defendant on several occasions took documents which are in evidence from this office, I called upon him to return the paper in question and repeated that call to him personally or to his counsel a number of times. Finally, at a hearing in December 1901, after the taking of some testimony tending to show the original production of this paper, its disposition in this office and its withdrawal from the office, the defendant brought and produced fragments of the said paper pasted together, the said document being marked Exhibit G. M. December 17/01, and testified on page 159 of the auditor's record as to his taking the paper from this office and the manner in which it was torn, etc. Such portions of the paper as were then produced and filed I recognize as in substance containing partially the phraseology which I remember as contained in the paper when originally produced.

JAS. G. PAYNE, *Auditor.*

452 In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Deceased, }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

Testimony on Behalf of Complainant on Reference to Auditor.

Hearing, pursuant to notice, held on the 27th of June, 1900 at 10 o'clock a. m., Mr. Tucker representing the complainant and Mr. Birney and Mr. Edwards representing the defendant, whereupon at the request of counsel for the defendant to allow further time for preparation an adjournment was taken to meet on Wednesday, July 11th, 1900 at 11 o'clock.

WEDNESDAY, *July 11th, 1900—11 o'clock a. m.*

Hearing, pursuant to adjournment last noted, both sides being represented by same counsel noted above; whereupon at request of counsel for defendant for further time to prepare the case, an adjournment was taken to meet on Saturday July 14th, 1900, at 10 o'clock a. m.

SATURDAY, *July 14th, 1900—10 o'clock a. m.*

453 Hearing, pursuant to adjournment last noted. Same counsel present. Whereupon after request and statement of coun-

sel for the defendant the hearing was further adjourned to meet on Thursday, August 2nd at 10 o'clock by agreement.

THURSDAY, *August 2nd, 1900—10 o'clock a. m.*

Hearing, pursuant to adjournment last noted.

Present: Same counsel representing the parties, respectively and also Mr. Butterfield appearing for defendant. Whereupon a further adjournment was taken by agreement to meet on Monday, August 6th, 1900 at 10 o'clock a. m.

MONDAY, *August 6th, 1900—10 o'clock a. m.*

Hearing, pursuant to adjournment.

Present: Mr. Tucker on behalf of plaintiff and Mr. Birney and Mr. Edwards on behalf of defendant, whereupon an adjournment was taken at the request of the defendant to meet on Wednesday, August 8th, 1900 at 10 o'clock a. m.

WEDNESDAY, *August 8th, 1900—10 o'clock a. m.*

Hearing pursuant to adjournment last noted.

Present: Same counsel as last noted; whereupon Gilbert Moyers the defendant herein, appeared as a witness in his own behalf and who having been first duly sworn, testified as follows:

Direct examination.

By Mr. BIRNEY:

454 Q. Since your testimony before the examiner have you, at the instance of counsel, prepared a list of all cases in which you were concerned with George B. Edmonds, under the agreement between you? A. I have.

Q. Look at the paper now shown you and state if that is the list and what it shows (handing paper to witness). A. This is the list I now hold in my hand which I have prepared, showing the Edmonds cases as appears from my docket and from other evidences with the papers on file in the Court of Claims. It also shows the cases allowed and the cases dismissed and the cases pending.

Q. That is, it shows, as I understand you, the present status, whether allowed, pending or dismissed, of all the cases in the list? A. It does.

Q. In the first column there are numbers. To what do they refer? A. Those are the numbers in the Court of Claims. They are styled, "Congressional cases." For instance, the first number is 1185 Congressional, and so on down the list.

Q. And those numbers correspond with the numbers in the Court of Claims dockets? A. They do.

Q. Do you know how many cases there are upon that list? A. They make 225. (Witness counting cases.)

Q. Of the 225 cases in the list how many were allowed?

Mr. TUCKER: I must object to that question because it
455 does not seem to me that that list, made up, as the witness
has stated, from his books, can be the best evidence of what
cases were allowed and what cases were disallowed, and what was
done with the cases in that list; and upon the further ground that
the scope of this inquiry is as to what was done in reference to the
twenty odd cases mentioned in the bill of complaint in this case in
which it is alleged that fees were collected by Colonel Moyers, which
fees were distributable to himself and to the estate of the intestate
of the complainant in this case. The preparation of the list might,
of course, subserve the purpose of convenience but I am not willing
that Colonel Moyers should testify that a list that he has made up
from books and records we have never seen should be evidence as
to what was done in the several cases which purport to be named in
that list. I don't think it is competent testimony and I don't think
it is within the scope of this reference.

The AUDITOR: Well, it is in fact a general partnership account-
ing.

Mr. TUCKER: The order of reference is not intended to cover that.

The AUDITOR: Perhaps you might leave that for the present; but
it seems to me that the substantial objection, as to Colonel Moyers
testifying what was done with these cases and which of them were
allowed, is that there is better evidence.

(After argument:)

456 Mr. TUCKER: I offer in evidence as a statement of the ac-
count of the complainant the Exhibit No. 1 attached to the
bill of complaint in this case.

The AUDITOR: It is, of course, very evident that somewhere in
these proceedings it will be necessary to determine what cases were
included in this partnership, and while I am not very particular
whether it is done at the outset or done somewhere during the pro-
gress of the evidence, it will have to be done some time. Then, I
must say that I understood from the first hearing we had here that
the defendant was to file a statement in the form of an account of
his receipts and disbursements. I am willing to go on with this
testimony but it would be a saving of time and labor to wait. I will
allow you to go on as you have begun the subject to Mr. Tucker's
objection.

Mr. TUCKER: I reserve an exception.

Q. Of the 225 cases how many were allowed, how many were dis-
missed and how many are now pending undisposed of?

Mr. TUCKER: It is understood that the objection above made shall
apply to all questions relating to the alleged list or schedule con-
cerning which the witness is testifying.

The AUDITOR: I will allow this testimony to be given subject to a
motion hereafter to strike it out.

Mr. TUCKER: Exception is reserved to the action of the auditor in this respect.

457 A. Five cases were allowed by the court, one on the merits was dismissed, no amount being found, and seventy-four were dismissed outright, all on alleged disloyalty, except possibly a few in bar, the court having no jurisdiction, loyalty being a jurisdictional question. When the question of loyalty came up the cases were dismissed.

The AUDITOR: Colonel Moyers, just tell us the results, you need not tell us the reason.

The WITNESS (continuing): The balance of the 225 cases are still pending in court.

Q. Will you give us the names and numbers of the cases allowed? A. Henry Fitzhugh, No. 1201, Congressional; John W. Fletcher, No. 4461, Congressional; Thomas Ryan, No. 4111, Congressional Nathaniel K. Thornton, No. 6902, Congressional, and William R. Wellborn, No. 4190, Congressional. In the case of William E. Carthart, No. 6823, the courts found the facts but failed to find any amount.

Q. In what number or proportion of those cases was testimony taken on behalf of the claimants? A. Testimony was taken in the seventy-four cases dismissed, and in the cases in which there were findings, six in number, making eighty in all. Then testimony has been taken in a number of those that are still pending. I am not able to give the exact number but I could do so before my examination closes.

Q. Can you produce here a statement of the expenses incurred in the prosecution of the whole number of cases and of the prosecution of the cases which were either dismissed or are yet pending?

458 A. I can and will as soon as the preparation of the same is completed.

Q. Am I right in stating that the course of the Court of Claims in these cases is to require first testimony as to the loyalty of the claimant? A. It is uniformly so in Bowman Act cases; and these are all Bowman Act cases.

Q. Will you also produce a statement of the amounts received by you in the whole number of cases which you enumerate? A. I will.

Q. A schedule has been offered in evidence on behalf of the complainant as found attached to the duplicate agreement of the partnership left in possession of the receiver. Have you examined that schedule since your last testimony for the purpose of ascertaining how many, and which, of those cases were represented in the Court of Claims by other attorneys than Moyers and Edmonds, and by what attorneys.

Mr. TUCKER: I object to this testimony on the ground that I don't think the ruling of the auditor before covers testimony called

for by the question. It clearly calls for hearsay testimony, the best evidence being the record of the Court of Claims.

The AUDITOR: I think the defendant is a competent witness to prove that he or the partnership were not attorneys in those cases.

I don't think that a man is compelled to go to the record to 459 prove that negative fact. The question is objectionable in

its present form, but I think it would be proper for the witness to say that they hadn't anything to do with those cases. I should hold a man is competent to testify from his own knowledge that he hadn't anything to do with a certain case or was not at a certain place at a certain time or any similar fact.

Q. I now show you a schedule of the cases, forty-seven in number, taken from the schedule attached to the duplicate offered in evidence on behalf of the complainant as attached to such duplicate, and I will ask you if the firm of Moyers and Edmonds was in any way concerned in the prosecution of those cases; and, if not, what attorneys did prosecute them?

Mr. TUCKER: I object to the latter part of the question.

The AUDITOR: The end of that question makes it incompetent.

Mr. BIRNEY: I will strike out the addenda.

Mr. TUCKER: I object to this question because it states a matter of fact *that* which has not been proved, and I call the auditor's attention to the fact that Mr. Birney has stated to the auditor that the list handed was taken from a copy of the list.

Mr. BIRNEY: The record before the auditor can determine that.

Mr. AUDITOR: I will allow the question to be answered just as it is for the reason that if that paper now shown to the witness contains any cases not on the schedule referred to, that, so far as 460 that case is concerned, the paper goes for nothing. It will only be material so far as it includes cases referred to in the question.

Mr. TUCKER: I note an exception.

A. It did not apply to any of them.

Q. How many of the cases in this last list were not represented by you in any way (referring still to paper giving list of cases in which Moyers and Edmonds had no interest)? A. The following cases I recognize, and there may be others, which were represented by other attorneys: Nelly, Congressional, 500; Hough, 703; Covington, 2391; Dan Coleman, 3144; Blanton, 3307; Harris, 3717; Baylor, 3894; Show, 3898; Sol. A. Miller, 4295; Poll, 4327; Goodloe, 1163 and 4452; Sheftall, 4463; Russell, 4476; Fields, 4506; Sheftall, 4507; Parker, 4508; John L. Roberts, 4711; J. J. S. Martin, 4794; Silas Boxley, 4923; Joseph Smith, 5806; James M. Thompson, 5998; Joseph B. Mann, 6015; J. A. Parker, 6589; Martha Price, 6690; Daniel Brown, 6760; M. E. Jones, 6825; Thomas Dye, 7421; E. A. Dunn, 7590; Thomas B. Paine, 7768; J. H. Hugelsby, 8170; John

H. Williams, 9518; I think all the others on the list I prosecuted in connection with other attorneys.

Q. What do you mean by saying you prosecuted them with other attorneys? A. I mean I received them from other attorneys, or they were associated with me in the prosecution, in which cases Edmonds had no interest, or the special partnership of Edmonds and myself.

461 Mr. BIRNEY: I offer in evidence the paper about which the witness has just been testifying, headed "Cases in Edmonds' schedule, which belong to other attorneys or were received by Moyers from them," to be marked Exhibit "A;" also the paper previously produced by the witness entitled, "List of Edmonds' cases," as Exhibit "B."

Mr. TUCKER: I object to both papers on the grounds heretofore stated, and to the first paper offered in evidence upon the further ground that it contains the names of attorneys other than Moyers and Edmonds, and thus attempts to accomplish indirectly what has been heretofore ruled out by the auditor, namely that the evidence of the other attorneys connected with those cases is not admissible.

The AUDITOR: These papers will be filed entirely in connection with the testimony of the witness and as enlightening his testimony as to the names of claimants and amounts but not as evidence in themselves of any fact which they purport to show.

Q. In the schedule produced by the complainant as attached to the duplicate agreement found among the effects of the decedent, are the fifteen cases in the paper which I now hand you (handing paper). Please state what you know about any such cases, whether you ever prosecuted them or knew of the cases or whether such cases are, so far as you know, upon the dockets of the Court of Claims? A. The cases embraced in this list, fifteen in number, are not on my dockets, neither are they on the dockets of the Court of Claims. They are cases I know nothing about and never heard of them before.

462 Q. On this list on which the fifteen claims are stated are certain figures following the names. Will you state to the auditor what those figures indicate? A. Those figures evidently relate to the reports of the commissioners of claims. The commission was created by act of Congress of March 3rd, 1871. The figure 9 (after the first name) means the 9th report, the "R" following stands for the report. The "100" refers to the page in the schedule or list of reports as published by the commission; and the other "La." stands for the State, indicating Louisiana; "Ga." means Georgia, &c.

Q. And these figures refer to the reports of the commissioners of claims and the volume of the reports, the name of the State from which the claim was made before the commission and the page of the report? A. Yes, sir.

Q. Is that the printed list of Southern Claims Commission cases produced at the hearing before the examiner and referred to in your earlier testimony? A. It is the printed list of the volumes of the reports produced in the examination of Mr. Healy, a witness in this case.

Mr. BIRNEY: I now offer the paper just referred to by the witness, in evidence, to be marked Exhibit "C."

Mr. TUCKER: I object to the paper as irrelevant and incompetent and as not bearing upon the issues involved in this reference.

The AUDITOR: I will allow it to be filed in connection with the testimony of the witness.

Mr. TUCKER: An exception is reserved to the ruling of the auditor.

463 Mr. BIRNEY: Until we produce the account I think we have nothing further to offer from this witness. That account is not yet ready.

Cross-examination reserved.

Whereupon an adjournment was taken to meet on Wednesday, August 15th, 1900 at 10 o'clock a. m.

WEDNESDAY, *August 15th, 1900—10 o'clock a. m.*

Hearing pursuant to adjournment.

Present: Mr. Birney and Mr. Edwards for defendant and Mr. Tucker and Mr. Butterfield for complainant.

Mr. BIRNEY: Now, if the auditor please, I have this morning a summarized statement of receipts and expenditures by Colonel Moyers on account of this business, and I will say there is yet one item which has not been made as I directed it and as I desire it before the auditor. With that exception the account is as I wished to present it. As I understood the other day the auditor desired us to file this account and I will file it subject to correction of this one item. It will then be subject to any exception or objection by counsel on the other side.

The AUDITOR: As a starting point for proceeding here I think the account should be presented embodying practically the claims of the plaintiff or defendant as the case may be, subject to 464 objection by the other side and subject, of course, to additions and objections throughout the proceedings. It does not foreclose the parties from amending it in any way.

Mr. BIRNEY: I will state briefly how this was prepared, except in the one particular in which it is not correct. Colonel Moyers charges himself with the fees received in the cases in which there was success, namely the three cases of Fitzhugh, \$7,952.63, Thornton, \$335. and Welborn, \$100., making a total of \$8,387.63. As against that he charges certain expenses and the expenses in those three cases as distinguished from the others, charging two and a half per cent. on the amount recovered, which, as I understand,

does not equal the amount of expenses; then the expenses in seventy-four dismissed cases and the expenses in the 151 pending cases, showing the net amount to be shared. Then he has charged the amount he paid Mr. Edmonds during the several years before his death, except one item of not very great amount which we will be prepared to state in a day or two. This statement I offer in evidence as Exhibit D.

The AUDITOR: This is filed subject to objections when counsel has an opportunity to examine it; and if you prefer you can go right on and take proof on either side.

Mr. TUCKER: I desire to reserve an exception generally to the whole statement on account of the manner of stating the account, not being justified in any way between the partners; and I reserve the right to object to any special item in the account hereafter.

The AUDITOR (to Mr. Birney): The general objection puts you on proof generally as to the account.

Mr. BIRNEY: I would suppose from what you already stated in the proceeding that the account should be more specific and definite before we go on and take further proof.

The AUDITOR: You say you made certain collections in three cases. That is your only statement, and it is for you to show that that is what you received. The matter of expense which you state in the account as presented, of course, is a proper subject of objection on the other side.

Whereupon the defendant, GILBERT MOYERS appeared for further examination

By Mr. BIRNEY:

Q. In the statement just filed you charge yourself with fees received in the cases of Fitzhugh, Thornton and Welborn. In your testimony you have stated that five cases were allowed, being the cases of Fitzhugh, Thornton, Welborn, Fletcher and Ryan. Will you please explain why the Fletcher and Ryan cases do not appear in your statement showing fees received? A. The Fletcher case has not yet been appropriated for. It is still before Congress. The Ryan case is not my case. I was mistaken there. That case was represented by Mr. Knutt. He was recognized in the Treasury Department in the settlement as the attorney of record.

Q. Did he receive the fees so far as you know? A. So far as I know he did. I know I received nothing.

Q. Then, the three cases named in the summarized statement filed this morning are the only three cases in which you have received fees? A. Those are all.

Q. Now, please state the amount you received in each of those cases. A. I received in the case of Fitzhugh \$7,952.63. The fee was one-half in that case. About \$1,900 of the fee went to Mr. William L. Little an attorney at Fredericksburg, Virginia under a

contract between him and Mr. Edmonds prior to the transfer of the business to me. In the Thornton case I received \$335. In the Welborn case I received \$100. The balance of the fee in the Welborn case went to Foster and Butler, attorneys residing in Georgia. I just forget their address at this moment.

Q. Under what arrangement was it that part of the fee went to them? A. Under a contract with the claimant. They were to have one-fifth, I was to receive two-fifths and the claimant to receive two-fifths. It was a very peculiar contract, but that contract was the basis of settlement, and the case was settled upon its terms. They were the local attorneys.

Q. Are you prepared to state this morning what were the 467 expenses in the five allowed cases or in the three allowed cases in which fees have been recovered? A. I am not prepared to state the actual expenses in those cases or even an approximate.

Q. Can you give that information in a day or two? A. I can.

Q. Now, are you able to state the expenses incurred by you in the prosecution of the seventy-four dismissed cases? A. I am.

Mr. TUCKER: I desire to be understood as objecting to that item of the account as claiming credit for items which, under the contract between George B. Edmonds and the defendant, is not justified.

(After argument:)

Mr. TUCKER: Those two items \$2,544.86 and \$2,266. are objectionable because they were not anticipated or provided for in the contract between the parties, nor does the character of the pending suit justify the inquiry by the auditor into the expenses that have been incurred by the defendant on account of those classes of cases.

The AUDITOR: I take it that the question of what cases are included in this partnership and in this proceeding are not distinctly settled.

Mr. TUCKER: No, and I think they ought to be settled first.

The AUDITOR: It seems to me that this account ought to be in different shape, Mr. Birney, if I understand the reading of these items. You take credit for expenses incurred in seventy-four dismissed cases, so much money in bulk, and so in 151 other cases.

That does not give the auditor or counsel any information as 468 to what particular cases are included in the seventy-four or the 151 cases, or what the particular expenses were that make up the bulk sum.

Mr. BIRNEY: That we will reach in the course of the testimony. It has already been testified that there was seventy-four cases disallowed and that 151 cases are still pending, and it has been already testified that testimony was taken in those cases and expenses incurred, and it is our intention to supplement this mere summary by testimony showing the expenses incurred and their character.

The AUDITOR: As the account filed to-day stands it does not in-

dicate how many of those seventy-four cases form a part of this case or how many are not, and so with the 151 cases. It may be they can be identified by referring to some other proof in this proceeding.

(After argument:)

The AUDITOR: This is a general accounting within the limits of the partnership set up in the bill. The partnership was not confined to those three cases. It involved a great many others. So what I am getting at is, is there anything in this account to show that those seventy-four cases and those 151 cases were included in the partnership set up in the bill. I think the shortest way is to take the proof.

(After argument:)

Mr. TUCKER: I object to any such general statement of the account as that made here which simply states that so much
469 money was expended in certain cases without giving us any opportunity except on cross-examination to determine how the expenses were incurred.

Mr. BIRNEY: How far should we go in detail as to these items?

The AUDITOR: Far enough to show the character of these expenses. It is not enough to say that in seventy-four cases he spent so much money. There is material somewhere for an account showing how and when the money was spent and in what amounts. You could not put the objecting party to the trouble of getting it on cross-examination.

Mr. BIRNEY: I will now offer memoranda showing in detail the expenses incurred in the seventy-four cases mentioned, giving the name of the claimant, number of the case and amount expended in each case and file it in evidence as Exhibit "E."

Mr. TUCKER: If the auditor please, it seems to me that this question of whether or not Colonel Moyers should be allowed to claim credit for the expenses that he claims to have been put to in these pending cases and in the dismissed cases ought to be decided now.

The AUDITOR: I would like now to know what your theory is as to these expenses in the disallowed cases. That is going to be an important question here and perhaps the court ought to have all the facts in its possession. It might not agree with me in my determination of the case. Would it not be better that we should
470 have an account in detail of the items of these expenditures?

Mr. BIRNEY: We have confined these to what we call the commissioner's fees. They refer to the taking of proof and the amount paid to the commissioners for fees.

The AUDITOR: Suppose Mr. Tucker wants to know to whom you paid those?

(After argument:)

The AUDITOR: You object to any allowance being made whatever in those seventy-four cases.

Mr. TUCKER: I do and also in the pending cases.

The AUDITOR: It will be necessary for the defendant to produce accounts showing the items and character of the expenditures for

which he claims credit, separately as to the allowed cases, the dismissed cases and the pending cases.

Whereupon an adjournment was taken to meet on Wednesday August 22nd, 1900, at 10 o'clock.

WEDNESDAY, *August 22nd, 1900—10 o'clock a. m.*

Met pursuant to adjournment last noted; whereupon on account of the absence of Mr. Tucker an adjournment was taken to meet on Thursday October 4th, 1900, at 10 o'clock, a. m.

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THURSDAY, *October 4, 1900—2 p. m.*

Hearing pursuant to notice.

Present: Messrs. Birney and Tucker.

Mr. Birney presents an itemized account showing the amount of fees received by Gilbert Moyers on account of cases in which George B. Edmonds was interested with him; expenses incurred in three classes of cases,—first, the cases allowed, second, the cases dismissed by the court upon hearing, and third, the pending cases undisposed of; also items of monies paid to Mr. Edmonds by Mr. Moyers from time to time, and a sheet summarizing the whole. Mr. Birney also presents with this account, a list of the so-called Edmonds cases now pending in the Court of Claims, undetermined and in which no proof has been taken.

Mr. Tucker states that he desires time to examine the statement so presented and the hearing is adjourned to Saturday, October 6th, 1900, at 10 o'clock a. m.

SATURDAY, *October 6, 1900—10 a. m.*

Met pursuant to adjournment.

Present: Messrs. Tucker and Birney.

Mr. Birney announces that Mr. Moyer- is confined to his house on account of illness and asks that the hearing be adjourned to Tuesday, October 9th, 1900, at 11 o'clock a. m.

Hearing is adjourned to Tuesday, October 9, 1900 at 11 a. m.

TUESDAY, *October 9, 1900—11 a. m.*

Hearing pursuant to adjournment.

472 Mr. Birney notifies the auditor that Mr. Moyer- is still ill, and states that he has notified Mr. Tucker of that fact.

Hearing is adjourned to Wednesday, October 10, 1900, at 2 p. m.

WEDNESDAY, *October 10th, 1900—2 p. m.*

Hearing pursuant to adjournment.

Present: Messrs. Birney, Tucker and Edwards.

Mr. Tucker on behalf of his clients, objects to each and every item of disbursement contained in the account heretofore filed by the defendant and for which he claims credit, and requires strict proof thereof. He also submits that the testimony heretofore taken in the cause requires the defendant to account for monies received in all of the partnership claims described in the bill of complaint.

THOMAS J. SHELTON having first been duly sworn testified as follows.

By Mr. BIRNEY:

Q. Please state your name? A. Thomas J. Shelton.

Q. What is your age? A. Sixty-one years.

Q. What is your place of residence? A. Grangeville, Tennessee.

Q. You now reside in Washington? A. No sir.

Q. What has been your connection with the Court of Claims. A. As commissioner of the court.

473 Q. For how many years? A. I was first a commissioner in the fall of 1886.

Q. As commissioner of the Court of Claims have you, from time to time, taken testimony in cases pending before it? A. Yes, sir, a great many cases.

Q. Always on behalf of the claimant or the Government? A. Sometimes for the Government and sometimes for the defendant.

Q. Does that continue over the whole period you have been commissioner? A. Yes sir, continuously.

Q. Have you, at the request of Col. Moyer-, examined the records of the Court of Claims for the purpose of preparing yourself to testify as to the amount paid commissioners for taking testimony in the cases named in the paper I now show you, being the accounts filed by Col. Moyers. A. I do not know about this paper, I did investigate a great many cases at his request.

Q. What course did you pursue in your examination? A. I went to the Court of Claims and called for the papers corresponding to the list.

Q. Did you receive them in all cases? A. Yes sir.

Q. Then what did you do with them? A. Examined them to ascertain what the commissioner's fees would amount to in each case.

Q. Did you also examine them to determine—— A. And also to ascertain the briefs that had been filed in the various cases.

474 Q. What was your purpose in examining the briefs? A. To ascertain the number of pages.

Q. Did you do that in each of these cases? A. Yes sir.

Q. Have you your memorandum showing amounts paid commissioners, the number of briefs and proofs? A. Yes sir.

Q. Please produce it?

Witness produces paper.

Q. Is the paper you now produce a true statement of the fees you find to have been paid the commissioners noted upon it and the number of pages of briefs on the records of the Court of Claims. A. This paper prepared by me from the original records in the Court of Claims shows the fees due the commissioners or notary public, taking proof in the several cases mentioned by number and name, and also the number of pages of briefs filed in the several cases as examined by me, and the pages counted set beside each name.

Mr. Birney offers the paper in evidence stating that it corresponds with the list filed by Col. Moyer.

Mr. Tucker objects to the competency of this paper as evidence.

Q. Did you make any other examination in the cases for any purpose? A. No sir, I think not.

475 Cross examination.

By Mr. TUCKER:

Q. Taking the first case mentioned on that paper, "Leonard #7451," please explain what is meant by the different items under the heading of that case. Read the item first and then explain each item? A. "Leonard #7451, testimony at Wash. D. C." March 3d. 1894 \$5.00. "May 29/94, testimony at Port Gibson, Miss. 11.50." "Aug. 29/94, 22 pages briefs on L."

Q. Explain what those different items mean? A. The first item of \$5.00 were the fees allowed by the court to the commissioner taking the testimony in that case for claimant.

Q. What commissioner, where? A. It does not say. May 29, Port Gibson, \$11.50, were the commissioner's fees taking proof for claimant in that case, No. 7451.

Q. How do you ascertain that amount of \$5.00? A. I arrive at the 5.00 by counting the pages, allowing the commissioner the rates allowed by the court; also the name in Port Gibson, Mississippi.

Q. In the same case, 7451, the first case on this list, the item August 29. 1894. Were the twenty-two pages for briefs filed on loyalty, filed by Gilbert Moyers—now do I understand that in that case you simply counted the pages of the testimony and estimated from the ordinary rates allowed for testimony taken at Washington? A. Yes sir.

Q. What were the fees fixed by the court? A. The rules of the Court of Claims allow the commissioner or officer taking the proof, in longhand .15 a folio of one-hundred words: where it is written by a stenographer and put in type, the court allows .20 per one hundred words.

Q. In this particular case was the testimony taken at Washington taken in long hand? A. Taken in typewriting.

Q. What did you allow in this case? A. .20.

Q. Why did you allow .20 in this case? A. I think I knew the party taking it was *not* a stenographer.

Q. And that rate is allowed by the Court of Claims? A. Yes sir.

Q. How about the Port Gibson, Mississippi case? A. I think the Port Gibson case was taken in long hand.

Q. How much did you allow in that? A. .15.

Q. You allow .15 when taken in longhand and .20 when written on the typewriter? A. Yes sir.

Q. Where did you get such charge? A. From the rules of the court.

Q. Can you produce a copy of those rules? A. Yes sir.

Q. Who were the commissioners in Washington and Port Gibson?

A. I cannot answer that question. I would state that the
477 original memorandums taken by me upon the investigation,
contained the names of the commissioners or notaries, at what
place taken, and upon inspection of the several depositions I could tell
whether to rate them at .15 or .20. That is, where they were in
longhand I allowed .15 a folio: when in typewriting .20.

Q. Why didn't you put down there the number of folios in each case. A. I originally did, the number of pages in each case.

Q. Now the item here, "22 pages briefs on L." means that the attorney for the claimants filed a brief of twenty-two typewritten pages on the loyalty of the claimant? A. Yes sir, at the time mentioned.

Q. Do I understand that the court allowed the fees of the commissioners to the claimant on his succeeding in the case? A. I do not catch the question.

Q. What I mean is whether the cost of taking those two depositions at Washington and Port Gibson were charged up to the claimant?

Mr. Birney objects.

Q. Was the cost of taking these depositions charged up as costs when the Government allowed the claim? A. The court never allowed the costs.

Q. Is there anything on these depositions, to show whether the fees were paid? A. I could not say about all of them, some were paid.

Q. How about this Leonard case? A. I don't recollect now.
478 Q. Does what you have said about the Leonard case apply to all the cases on this list? A. Yes sir.

Mr. Tucker agrees that the paper which has been produced by the witness shall be considered as containing statements which the witness would have made if orally interrogated as to each case named

therein, but objects to all of such statements on the ground of their irrelavency, immateriality and incompetency.

The hearing is adjourned to Friday, October 12, 1900, at two o'clock p. m.

FRIDAY, *October 12th, 1900—2 p. m.*

Hearing pursuant to adjournment.

Present: Messrs. Birney and Tucker.

Mr. Birney states that Col. Moyers is still confined to his house by illness and just as soon as he is able to appear the hearing will be resumed.

The hearing is then adjourned subject to notice.

MONDAY, *October 22d, 1900—2 p. m.*

Hearing pursuant to notice.

Present: Messrs. Tucker, Birney, Edwards and Col. Moyers.

THOMAS J. SHELTON having been recalled testified as follows,

By Mr. BIRNEY:

Q. Did you act as commissioner in any of the cases which
479 you named and which are in the list you produced? A. Yes sir.

Q. Give the numbers and amounts paid you, if anything, in each case? A. No. 3810 Congressional, McAlpine *vs.* United States.

Q. What was the amount paid you? A. \$9.75. No. 3431 Congressional, E. B. Towne *vs.* United States, \$16.05. No. 3412 Congressional, Thomas Shelby *vs.* United States, \$8.00. No. 6826 Congressional, Gardner *vs.* United States, \$3.00.

Q. Where was the proof in these cases taken? A. The depositions in the Gardner case were taken at Franklin, Louisiana, November 14th, 1889. The proof in the McAlpine case was taken at Port Gibson, Mississippi, November 20, 1889. In the Towne case depositions were taken at Vicksburg, Mississippi, November 21st, 1889 and December 14th, 1889.

By Mr. TUCKER:

Q. There were two sessions? A. Yes sir, \$16.05. In the Shelby case proof was taken at Greenville, Mississippi, November 25th, 1889.

By Mr. BIRNEY:

Q. Who paid your fees? A. Col. Moyers.

Q. In all the cases? A. Yes sir.

Q. Who went with you to Greenville to take the testimony? A. I think Col. Moyers.

480 Q. Did you travel with Col. Moyers? A. Yes sir.

Q. Who paid the expenses? A. He paid my expenses and fees for taking testimony.

Q. Who paid the railroad fares and hotel bills? A. He did.

Q. Is that true in the other cases you have mentioned? A. Yes sir.

Q. Can you recall from what point you started? A. No sir, we were on a general trip to New Orleans.

Q. You made your start from Memphis? A. Yes sir.

Q. Was Col. Moyers' office at that place? A. Yes sir.

Q. Do you know what the railroad fare is from Memphis to Greenville or to the other places? A. No sir, I think three cents a mile is the regular charge.

Q. Do you know the number of miles? A. No sir.

Q. Has it been the custom in the taking of depositions in these cases, for commissioners to be employed who were resident of the places where the testimony was taken, or to have a commissioner to travel with the attorney and take the depositions from place to place? A. Well, my agreement with Col. Moyers was to take the trip along with him in 1889.

Q. Were you then a commissioner of the Court of Claims? A. Yes sir, he agreed to pay my expenses and the fees allowed by the rules of the court.

By Mr. TUCKER: I move to strike out all of the testimony
481 of this witness given at this session with respect to the commis-
sioner's fees paid to him in the four cases concerning which he
testified, upon the ground that the defendant under the terms of his part-
nership agreement with Mr. Edmonds is not entitled to credit for such
expenses, or for other expenses of the witness, the four cases referred
to never having been appropriated for.

The objection is overruled for the present with leave to renew it
at any stage of the reference.

Cross examination.

By Mr. TUCKER:

Q. You stated that in 1889 Col. Moyers' office was in Memphis, Tennessee? A. Yes sir.

Q. Did he have an office at Washington at that time? A. Yes sir.

Q. How much time did he spend in Memphis and how much time in Washington? A. I could not tell you. His family were in Memphis.

Q. His family were in Memphis and did he spend most of his time in Memphis? A. I think so.

GILBERT MOYERS having been recalled testifies as follows.

By Mr. BIRNEY :

482 Q. It has been testified by Mr. Shelton, that commissioners' fees appear to have been incurred in the cases involved in the list which you produced of cases pending, tried and dismissed in the Court of Claims, in which proof was taken and which you claim allowance for. State whether the commissioners' fees in these several cases have been paid, and if so by whom?

Mr. Tucker objects upon the ground that the defendant is not entitled to credit for disbursements made for expenses in any cases other than those appropriated for under the terms of his partnership agreement with the decedent, and it is desired that this objection be considered as made to all questions asked with respect to expenses incurred in that class of cases without repeating the objection.

The objection is overruled with leave to renew at any stage of the reference and the testimony is admitted subject to the objection which applies to all testimony sought to be introduced relating to this class of claims, the objection to be determined ultimately in this reference or at some convenient time.

A. These expenses were paid by me as incurred in the regular course of my limited partnership with Mr. Edmonds, pursuant to the contract agreements.

Q. Have you looked over the items of commissioners' fees for taking testimony in these various cases? A. I have carefully.

Q. What have you to say as to their correctness? A. They are correct, those fees were paid by me and the travelling expenses of the attorneys and commissioners as charged not only in those cases but in several others which I shall add.

483 Q. What course of practice did you pursue in the taking of depositions in these cases?

Mr. Tucker objects to the question as not calling for any facts as to what the witness did with respect to any particular case, the decedent or his estate not being bound in anywise by any practice of the witness but by his acts.

The objection is overruled for the present.

Mr. Tucker notes an exception.

A. I pursued that course of practice required by contract obligation in each particular case, that I was to bear the expenses incident to the prosecution of those claims and where I could not act myself, I sent an attorney, paid him a per-diem, hotel bills and commissioners' fees.

Q. Who paid the expenses of the commissioners? A. I paid those whenever I took one with me. In many instances I employed commissioners in the locality where the testimony was taken especially in the case of Mr. Jordan who was one of the attorneys in the cases.

Q. Look at this "Auditor's Exhibit No: 1," and state by whom

that was made up and what part you had in it. A. That was prepared by myself, under my special direction, after examining the record in each case, who was the attorney representing me, where the proof was taken, the number of days engaged and the necessary expenses incurred.

Q. You speak of records, what do you mean? A. I mean my own records in each case.

Q. Do those files show the name of the attorney who took
484 the depositions in each case? A. Yes, sir, they show all the essential facts.

Q. What items of expense appearing in that exhibit are shown by the Court of Claims records? A. Shall I take up each case separately?

Q. No, generally. A. The fees paid to the officer taking the depositions will appear by an examination of the records in the Court of Claims applying the fees as fixed by the rules of court, the briefs will show for themselves the number of pages and whether they are in typewriting or not, as the case may be, whether or not the affidavits show that it cost so much for each affidavit in the record of the Court of Claims, I am not prepared to state. The docket of the Court of Claims in each case will show the amount of work done on each case together with my own private docket in my office.

Q. You have stated that the records will show the amount paid the commissioners for taking testimony under the rules of the Court of Claims, what do you mean by that? A. It will show the legal charge allowed the commissioner for taking proof.

Q. How is that determined? A. By the number of days, or folios or pages taken in making proofs, that will show the amount I had to pay in securing these proofs.

Q. Can you state with this exhibit before you, whether it contains a true statement of account of fees paid for taking depositions as shown by those records?

485 (Hands witness statement filed in connection with the testimony of the witness Shelton and which is now marked "Exhibit Shelton" and admitted as the evidence of the said witness as to facts appearing in the files and records of the Court of Claims excluding all statements of rates of charge or allowance all computations and results in dollars and cents.)

Q. Can you tell who took the testimony and where it was taken in the case of James A. Mahan? A. Not without referring to my memorandum made by me.

Q. How much did you pay Mr. Jordan for his work for you in each case, how did you determine his fee? A. I paid Mr. Jordan by contract, seven dollars a day and his expenses, hotel and traveling. He first asked ten dollars but by correspondence I got him to reduce it to seven.

Q. You paid him seven dollars per day? A. Yes sir, with hotel and travelling expenses.

Q. Can you tell how much you paid him in the case of James A. Mahan? A. I cannot without seeing the number of days it took in taking proof. I think it was two days.

Q. What means have you of determining the expenses of hotels and railroad fares? A. By the usual rates of travel by rail, being at that time, I think, three cents a mile. The distance from Memphis to Corinth was two hundred and fifty miles and the hotel rates were two dollars a day.

486 Q. The testimony in that case appears to have been taken at Iuka, Mississippi. Is that further from Memphis than Corinth? A. Yes sir, twenty-five miles at least. I can get a time table which will show the exact distances.

Q. Who was H. K. Martin who appears to have taken testimony in the second case, that of A. R. Leonard? A. He was at that time a practicing attorney in Corinth, Mississippi, and I employed him in several instances.

Q. How much did you pay Mr. Martin per day? A. Ten dollars and expenses except in those cases in which he had an interest, which were not these cases.

Q. He had no interest in any of these Edmonds cases? A. No sir.

Q. Where did he live? A. At Waterville, Mississippi.

Q. When you were not represented by an attorney in these cases, who acted for you in the taking of depositions when you were not present. A. I generally gave them personal attention with those exceptions, in some instances I framed interrogatories and had the commissioners ask them.

Q. How are those cases distinguished from the other cases in which attorneys appear in this auditor's exhibit? A. Only in the records of the testimony, which will show if any attorneys appeared.

Q. You have charged in this account for typewriting briefs, please state what you paid for typewriting in these cases? 487 A. About the average price, twenty-five cents a page.

Q. Did you pay for the typewriting you had done in these cases? A. Yes sir, I paid for all the expenses.

Q. Have you any way of telling what amount you paid for railroad fares and hotel expenses of attorneys or persons who represented you? A. Only by general expense account and what was customary hotel charges and the regular railroad charges, knowing the distances travelled and the location of the hotel and what was about the usual prices charged at such localities.

Q. Then you kept no exact detailed account? A. It goes into a general expense account, as I had to pay all expenses in these accounts I kept no detailed account, and otherwise I would have made the fee contingent upon success, and I to pay all expenses.

Hearing is adjourned to Wednesday, October 24th. 1900 at two o'clock p. m.

WEDNESDAY, *October 24th, 1900—3 p. m.*

Hearing pursuant to adjournment.

Present: Messrs. Tucker, Birney, Edwards and Col. Moyer.

GILBERT MOYERS having been recalled testifies as follows,

By Mr. BIRNEY:

488 Q. Your attention was called the other day to the items of charge in "Auditor's Exhibit No. 1," of railroad fares in various cases pending, tried and dismissed, in which proof was taken. Are you now able to give in detail the distances travelled and the amount spent for these items? A. I am.

Q. Please do so? A. My reference to Appleton's Railroad Guide enables me to state the distances as follows—

Mr. Tucker objects to the witness referring to any guide or book to show the distances without showing that this is an official book or document showing such distances.

Mr. Birney desires it noted that the witness produces book and offers it in evidence.

By Mr. TUCKER:

Q. What is the book? A. The Travellers Guide published by Appleton.

Mr. Tucker objects to the competency of the book as produced no proof having been offered to show its official character or its competency as evidence.

By Mr. BIRNEY:

Q. Where did you procure that book? A. I instructed one of my clerks to go to the railroad office and purchase it.

Q. What knowledge have you of that publication being accepted as an official publication? A. I have no knowledge except that it seems to be referred to in all railroad offices when you enquire about distances, rates, &c. It is a regular publication issued by the Appletons monthly.

489 Q. Do you know whether it is in use by railroad agents at stations? A. I have seen similar books on the desks of railroad agents for use.

Mr. Tucker objects to the competency of the books. The best evidence of the distances referred to is an official book of distances issued by the Government of the United States.

Mr. Birney offers the book in evidence.

The objection is overruled and the book admitted.

Mr. Tucker notes an exception.

Q. Did you state the other day, the rate in railroad fares in that part of the country, Memphis and various places in Mississippi, mentioned in this case? A. I did.

Q. What was it at that time? A. Three cents a mile. I might add, possibly not quite that much for long distances.

Q. Have you any correction to make as to the distance from Memphis to Corinth? A. I find I am reported as stating two hundred and fifty miles. I intended to state about one hundred miles. I find the correct distance is ninety-three miles, to be found on page 179 of this railroad guide. There is another slight mistake in the distance from Iuka to Memphis, I was under the impression that Iuka was about twenty-five miles from Corinth, making it about one hundred and twenty-five miles, I find the actual distance is one hundred and eighteen miles as shown on page 179.

490 Q. Of the railroad guide? A. Yes sir.

Q. In the case of Z. C. Baker I find L. C. Batten named as the attorney who had charge of the case. Did he represent you and if so what contract had you with him?

Mr. Tucker objects unless the contract is not in writing.
Objection is sustained.

Q. Was that contract with Mr. Batten in writing or how? A. I cannot recall any contract in writing.

Q. Well, how much did you pay Mr. Batten for serving you? A. I cannot recollect the amount but I think he didn't charge in that case for attorney's fees, I think they charged for taking the testimony before a notary.

Q. In the case of Abraham Eichburg appears a charge of attorney's fees ten dollars, and that William H. Jones appeared for the complainant. What compensation did you give Mr. Jones for appearing? A. Mr. Jones' services were engaged by the commissioner who took the testimony and I paid the amount, ten dollars, for his services.

Q. In the case of Susan Thagard appears a charge of ten dollars for attorney's fees, in which Henry S. Cook seems to have appeared for the claimant. What arrangement did you have with Mr. Cook and with the claimant? A. That proof or testimony was taken in

North Carolina and the book here records where the claimant resided and the commissioner reported the price of this attorney and I paid his fees, ten dollars.

491 Q. In the case of Patrick Lynch the testimony appears to have been taken at Atlanta Georgia before J. H. Smith and that M. Lewis appeared as attorney. What amount did you pay him if he appeared for you? A. I paid him ten dollars, that is what all those local attorneys charged me where they did not have a contingent interest in the fee.

Q. In the case of Lucy A. Caldwell the testimony seems by the record, to have been taken at Little Rock and Sol Clark appeared for the claimant and if he appeared for you state what you paid him? A. He appeared for me and I paid him at different times for his services different sums as he would render an account.

Q. What was it all told? A. I think ten dollars which was his usual charge.

Q. In the same case depositions were taken at Plum Bayou, Arkansas, where White & Altheimer appeared for the claimant. Did they appear also for you and if so, how much did you pay them? A. They appeared for me and I instructed them what to do, gave them the history of the case and paid them.

Q. How much? A. Ten dollars.

Q. In the same case testimony was taken at Fort Smith
492 by — — for the claimant, did you pay him and if so,
how much? A. I do not recollect that name. I will have
to examine the data to make a more definite answer as to that.

Q. In the case of H. Woodward depositions appear to have been taken at Navasota Texas and Earle Preston appeared for the claimant, did you employ him and if so how much did you pay him? A. I find I did not bring that docket with me, I would like to defer an answer to that question until I can look at the docket.

Q. In the case of W. K. Abbott testimony appears to have been taken at Harrisonburg, Virginia, and H. J. Taylor appeared for the claimant, did you employ Mr. Taylor and if so, how much did you pay him? A. Mr. Taylor had an interest in that case I find and the attorney's fees should be omitted from the account. He had a general interest in the business in that locality. Is the name H. L. Taylor?

Q. No, H. J. Taylor. A. I think that is his name if I am correct about it he made no charge, he had an interest.

Q. In this exhibit you have made in each case a charge for office expenses. Will you please explain in detail how you arrive at the charge you name? A. In the case of James A. Mahan, to illustrate what I mean by office expenses, I wish to refer to my docket entries in that case, the first case on the list, the entry in this case on page 72 docket H now produced. This shows twenty-two entries.

493 Q. Extending over what period of time? A. From March 1890 to June 1894, besides these entries many letters were written which it wasn't necessary to enter upon the docket. Now I estimate from these entries—

Mr. Tucker objects.

Mr. Birney states that he wishes to offer these dockets in evidence.

Q. Are those original entries? A. They are certainly original entries.

Q. Are these the dockets kept in your office? (Pointing to books in the possession of the witness.) A. They are the regular dockets, the entries are nearly all, if not all, made by clerks in my office charged with that purpose, some of the entries may have been made by clerks now out of my employ.

Q. These books were kept in the regular order of business in your office? A. Yes sir.

Q. What do they purport to show? A. They purport to show the filing of different papers at different times in the Court of Claims, and the entries in the Court of Claims will corroborate every entry in this docket as to character of papers filed. They show the papers sent down to the claimant or his attorney to have executed. Now in this first case, here is the reference of this claim, March 1890, to the Court of Claims, eight papers or more. A part of the office expense is the expense incident to having that claim referred, that requires a clerk's attendance on committees and the ordinary expenses of going to and from the Capitol, and the time expended in going, and his salary. The next charge is in March 1890, call made upon the Confederate records or archives, the next entry—. It involves all the expenses of clerical labor, &c.

494 Q. Have you other book entries in the other cases which are mentioned in this Exhibit No. 1?" A. In every case.

Q. Can you give the auditor a memorandum of the pages of your dockets? A. I can.

Q. Have you here now your dockets in which these entries appear? A. I have three of them.

Q. Is there another or more than one? A. I think his cases extend over some eight or nine of my dockets. I only brought these three as they referred to the first cases on the list.

Mr. Birney offers in evidence the several pages of the dockets on which appear the entries mentioned in "Exhibit No. 1."

Mr. Tucker objects to the admission of the entries in evidence on the ground that entries of the character described by the witness are wholly insufficient to entitle him to claim for a credit for so-called expenses, there being nothing in the entries to show any specified sum or sums of money expended by him for expenses, and they do not supply any data by which an estimate of it can be properly made of the actual amount of money, or if expended by him for this purpose.

495 The auditor rules that for the present the evidence will be allowed to be received. Mr. Tucker notes an exception.

Q. During the time mentioned you had an office in Washington you have testified? A. Yes sir, I had an office in Washington.

Q. How many clerks did you employ? A. From four to six or seven, sometimes more.

Q. Can you state what were your office expenses, clerk hire, rent, stationery, and other incidental office expenses at any period?

Mr. Tucker objects to the question as wholly incompetent and irrelevant.

A. I cannot without reference to my books, expenses varied both as to my rental and number of clerks and their salaries at different times.

Q. Can you make up such a statement? A. I can substantially.

Q. Please do so. During the time that you were engaged in the

active prosecution of these cases mentioned in Auditor's Exhibit No. 1, can you tell what proportion of the time of your office force was spent upon these cases as compared with the whole number of cases you were prosecuting?

Mr. Tucker objects.

496 A. I should say a fair estimate would be one-fourth or one-fifth of the time and expenses, for the reason that I have disposed of on an average about eighty to one hundred and twenty cases a year and the number of these cases I believe aggregate nearly two hundred or three hundred and the principal work was done in 1889, 1890, 1891, 1892 and 1893 possibly extending into 1894. Some work has been done since.

Q. I will request you to make up a statement of your office expenses during the period of time you have named, and produce it at the next session.

Hearing is adjourned to Thursday, October 25th, 1900 at 11 a.m.

MONDAY, *October 29th*—2 o'clock p. m.

Hearing pursuant to adjournment from Saturday October 27th, 1900, at which time Mr. Birney was unable to be present owing to an engagement in court.

Present: Messrs. Edwards, Tucker and Shelton.

THOMAS J. SHELTON, having been recalled testified as follows:

By Mr. EDWARDS:

Q. You were asked before, to produce the rules of the Court of Claims. Have you done so? A. Yes sir, I have the rules of 1884 here.

497 Mr. Tucker after examination of the copy of the rules, offered, asks if it would not be well to have the witness point out the rule relating to that case.

By Mr. EDWARDS: Read the rule relating to fees?

A. Section 7, page 15, rules of the Court of Claims for 1884—

Mr. Tucker states that he has no objection to the introduction in evidence of these rules provided it be shown that no new rules affecting the fees of commissioners at the time of taking testimony in the cases referred to by the witness, have *not* been made.

Mr. Edwards states that hereafter he will put in the rules running up to 1895.

The WITNESS: Section 7 reads as follows.

"7. The fees shall be three dollars a day for attending to take the depositions, and twenty cents a folio of one hundred words for tak

ing and returning it; but this *per diem* allowance is limited to one day for a deposition or series of depositions taken in the same case. Short hand reporters, acting as special commissioners, will receive, in addition to these fees, ten cents a folio for writing out the deposition from their notes."

Q. I will ask you if you have examined the record of the Court of Claims in the cases of Fitzhugh, Thornton and Welborn in regard to the expenses for typewriting and depositions, and if so, have you made any memorandums from these records and if so, produce them? A. Yes sir. Here are the three cases. (Hands Mr. Edwards the memorandums.)

Mr. TUCKER: I object to so much of the memoranda just produced by the witness, as indicates the price or charge for the typewriting of depositions and briefs and for the *per diem* charge, unless it be shown that such charges appear on the dockets of the Court of Claims in these three cases.

Mr. Edwards offers the memorandums in evidence.
The auditor sustains the objection but admits the paper to be filed.

The memorandum is marked "Exhibit Auditor No. —."

Q. Have you examined the case of Weatherby and if so, is this the memorandum taken from those records? (Hands witness memorandum.) A. Yes sir.

Mr. EDWARDS: This memorandum shows the price of the work.
Mr. Edwards offers this memorandum in evidence leaving out the prices, for the purpose of showing the quantity of work done.

Q. Can you state what the custom was in regard to claimants paying the expenses of taking testimony, or whether the attorney had to pay the expenses, what was the usual custom? A. As far as I know myself what the custom was before me as a commissioner.

Mr. Tucker objects as the witness has not qualified himself by his answer to show what the custom was.
499 Mr. EDWARDS: The purpose of this is to show the universal custom was for the attorney to pay the fee when the fee agreement was fifty per cent.

The auditor states that he will sustain the objection.

Cross examination.

By Mr. TUCKER:

Q. Do you know whether in May 1893, John C. Scott was in the employ of Col. Moyers? A. No sir, I do not.

Q. Do you know whether in 1891 T. J. Healy was an employé of Col. Moyers? A. I don't know, I know in 1893 when I was up here, he was in Col. Moyers' employ.

The hearing is adjourned subject to notice.

DECEMBER 13TH, 1900.

Hearing pursuant to adjournment.

Messrs. Tucker and Birney.

Further hearing is adjourned to Tuesday, December 18th, at 2.30 p. m.

TUESDAY, *December 18th, 1900—2 p. m.*

Hearing pursuant to adjournment.

Mr. Tucker telephones that owing to the death of his mother he requests an adjournment until further notice.

MONDAY, *December 24th, 1900.*

Hearing pursuant to agreement.

500 Present: Mr. Edwards, of counsel for Col. Moyers.

After waiting for half an hour and no other counsel or parties appearing, the hearing is continued to Wednesday, December 26th, 1900, at 10.30 o'clock a. m.

WEDNESDAY, *December 26th, 1900.*

Hearing pursuant to adjournment.

Present: Mr. Edwards and Col. Moyers.

At ten minutes after eleven o'clock no other counsel or parties appearing, at the request of Mr. Edwards the hearing is adjourned subject to notice.

WEDNESDAY, *January 9, 1901—2 p. m.*

Hearing pursuant to notice.

Present: Messrs. Birney and Tucker, and Col. Moyers in person.

GILBERT MOYERS having been recalled by Mr. Birney testifies as follows:

By Mr. BIRNEY:

Q. In your statement filed heretofore with the auditor, you have charged against George B. Edmonds cash advances, for payments made by you to him to the extent of fourteen hundred and seventy dollars, and have heretofore in connection with your testimony before the examiner produced certain receipts and checks. Have you any other receipts or checks endorsed by Mr. Edmonds for moneys so advanced to him, if so please produce them? A. I have here a check of April 8th, 1892, payable to George B. Edmonds or
501 order on the National Metropolitan bank for one hundred dollars, and endorsed by him.

Mr. Birney offers the check in evidence and it is filed and marked "Exhibit Moyers Jan. 9. 1901, No. 1."

WITNESS: I have also a check No. 272, National Metropolitan bank, dated May 7. 1892, for fifty dollars, endorsed by Geo. B. Edmonds and collected by him.

Q. Any other payments to Mr. Edmonds? A. These are all I have checks for.

Mr. Birney offers the check dated May 7, 1892, in evidence and it is filed marked "Exhibit Moyers Jan. 9, 1901, No. 2."

Mr. Tucker moves to strike out all of the testimony of witness contained in his answers to the preceding questions, except so much as merely identifies the checks produced in evidence, on the grounds that in this proceeding such testimony is incompetent under the statute prohibiting parties from testifying in suits by administrators whereby the estate of the intestate may be affected.

The auditor states that the objection is good as to one or two things in the testimony.

By Mr. BIRNEY:

Q. In your account to which I refer, that check of May 7th, 1892 for fifty dollars does not appear. Will you say whether that is an item in addition to anything that appears there? A. It is.

Q. Did you keep any record of payments made to Mr. Edmonds? A. I did.

502 Q. In what form? A. To a certain extent in my diaries.

Q. Did you keep diaries at that time, please explain what diary you kept of financial transactions? A. I kept a diary account all my life.

Q. Have you your diaries covering the period from the 1st. of June 1889, through the year 1892, here present? A. My diary for 1892 has become mislaid, I commence with 1889.

Q. You mean you have present your diary for 1889? A. Yes sir, I have in my hands my diary for 1889.

Q. Will you please turn to any entries made on your diary in the year 1889 showing payments for financial transactions with George B. Edmonds? A. Yes sir.

Mr. Birney offers in evidence the entry under the heading of Wednesday January 2d., G. B. Edmonds ten dollars.

Mr. Tucker objects to the admission of the entry in question.

Q. When were the entries in these books made? A. On the dates named in the account.

Q. And by whom? A. By myself.

Q. Are all the entries in these three several books, as far as you know, in your own handwriting. A. They are in my own handwriting.

503 Q. And all made at the times they purport to have been made? A. Certainly.

Q. Now the entry under date of Friday, February 8th. 1889, "Paid Edmonds \$5.00"; under date of Sunday February 24th. 1889, "Paid Edmonds loan \$15.00"; under date of Friday, March 29th. 1889, "Paid Edmonds \$10.00"; under date of Thursday April 11th. 1889, "Paid Edmonds \$10.00"; under date of Tuesday April

16th. 1889, "Paid Edmonds \$5.00"; under date of Wednesday May 8th. 1889, "Paid Edmonds per T. J. Healey \$15.00"; under date of Wednesday June 5th. 1889, "Paid G. B. Edmonds \$25.00"; under date of Sunday June 23d. 1889, "Paid Edmonds \$10.00"; Monday September 23d. 1889, "Paid Edmonds \$5.00"; Monday November 4th. 1889, "Paid Edmonds \$10.00"; Wednesday November 20th 1889, "Paid Edmonds per T. J. H. \$20.00"; I understand you to say you haven't here the diary for 1890? A. No, I looked for it today but could — find it.

Q. Is the book I now have in my hand the one you have identified as your diary for 1891? A. It is.

Q. The following entries, Tuesday June 2d. 1891, "Loaned G. B. Edmonds \$25.00"; Monday June 8th. 1891, "Advanced G. B. Edmonds \$50.00"; Tuesday August 25th. 1891, "Paid Edmonds per T. J. Healey, \$25.00"; Saturday November 28th. 1891, "Loaned Edmonds \$10.00"; Saturday December 5th. 1891, "Edmonds \$20.00"; Tuesday December 8th. 1891, "Loaned Edmonds \$15.00"; Thursday December 10th. 1891, "Paid George B. Edmonds loan check \$30.00";

Thursday December 24th. 1891, "Loaned Edmonds \$25.00."

504 In connection with that last entry I show you now a letter dated Decelber 18. 1891, and signed "Geo. B. Edmonds," and ask you if you know the handwriting, if so, whose it is? A. The handwriting is that of George B. Edmonds and his signature is to the letter.

Mr. Birney offers the letter in evidence and it is filed and marked "Exhibit Moyers Jan. 9. 1901, No. 3."

Q. The book I now hold in my hands, is this your diary for 1892?
A. Yes sir.

Q. There are the following entries, Sunday Jan'y 17th. 1892, "Loaned G. B. Edmonds check \$50.00"; Wednesday Jan'y 20th. 1892, "Loaned G. B. Edmonds \$25.00"; Tuesday February 9th. 1892, "Paid Edmonds \$30.00"; Monday March 14th. 1892 "Loaned Edmonds \$10.00"; Friday April 8th. 1892, "Loaned George B. Edmonds check \$100.00"; Wednesday April 27th. 1892, "Loaned G. B. Edmonds \$30.00"; Saturday May 7th. 1892 "Edmonds check \$50.00" —

The WITNESS: The entry in the account under date of April 7th. 1892, should be May 7th. 1892.

Mr. BIRNEY continuing: Tuesday May 19th. 1892, "Loaned George B. Edmonds \$50.00"; this entry also, by mistake in the account is as of April 19th. 1892. June 11th. 1892, "Loaned G. B. Edmonds \$20.00"; June 18th. 1892, "Loaned Edmonds \$25.00"; June 21st. 1892 "Paid Edmonds \$25.00"; June 29th., "Loaned Edmonds \$40.00" July 11th. 1892, "Loaned Edmonds \$10.00"; July 23d. 1892, "Loaned Edmonds \$15.00."

By Mr. TUCKER:

505 Q. Now this is your offer, of these three books? A. Yes sir.

Mr. TUCKER: To the admission of the entries described or to the books containing them I object. First, on the ground that the identification of the entries by the witness involves his testifying to transactions with the decedent; and secondly, upon the ground that there is nothing in the entries themselves showing that the sums mentioned therein to be advances upon the partnership account but on the contrary many of the entries show the sums of money mentioned to have been loans by Col. Moyers to Mr. Edmonds and as such they cannot have a part in the taking or stating of this partnership account.

Q. Are these books confined in their entries of payments to your transactions with Mr. Edmonds?

Mr. Tucker objects on the ground that an answer to the question will disclose the character of transactions with the decedent.

Mr. Birney states that the books will be filed.

The objection is overruled.

Mr. Tucker notes an exception.

A. They are my daily transactions with all parties with whom I had business in the payment of money or in the receipt of the same.

Q. You have heretofore testified that in the case of Fitzhugh administrator, you had local counsel to assist you, have you 506 now present the check with which you paid that local counsel? A. I have, the check is payable to Wm. A. Little Jr., att'y, \$1,997.50, dated March 17th. 1899, on Riggs bank, and the endorsement is the signature of Mr. Little, the check is stamped paid.

Mr. Birney offers the check in evidence and it is filed marked "Exhibit Moyers Jan. 9, 1901, No. 4."

Q. The claim of Wilson Williams administrator of R. Williams, deceased, is one of those stated in the schedule produced by the complainant. Have you here present the power of attorney from Wilson Williams? A. I have. (Witness produces power of attorney)

Q. Look at the paper now shown you and see if that is power of attorney? A. Yes sir.

Mr. Birney offers the power of attorney in evidence and it is marked "Exhibit Moyers Jan. 9, 1901 No. 5.

Mr. Tucker objects to the paper offered in evidence on the ground that there appear to be two subscribing witnesses and it should be proved if at all by such witnesses.

Q. How long has this paper been in your possession? A. Ever since it was executed.

Q. You mean ever since the date it bears? A. Yes.

Q. Did you act on that paper in the prosecution of this claim? A. Yes.

507 Q. Where has this paper been since its date? A. In my office, I think it has no mark of filing—yes it has. It was filed on May 15th. 1888.

Q. Where? A. In the Court of Claims as appears by the marking.

Mr. Tucker objects to the paper.

Objection is overruled.

Mr. Tucker notes an exception.

Q. You have testified that you had in your employ Mr. R. A. Jordan who acted as commissioner and special attorney in taking proof. Are you now able to state the amounts you paid Mr. Jordan? A. I have in my hands the amounts paid him and in part the amount paid as commissioner's fees from October 1892 to December 1892. (Witness produces statement of account.)

Q. Are the amounts correct? A. Absolutely correct except as far as the examiners' fees go.

Mr. Tucker objects on the ground that there is nothing to show who prepared this paper.

Objection is sustained.

Q. From what sources did you make up this statement? A. I made it up from my diary.

Q. Are the entries in your diary shown here? A. Yes sir.

Q. Produce your diary of 1892 and give us the amounts 508 paid by Mr. Jordan as stated therein?

Witness produces diary and it is agreed by counsel that so far as the entries in the diary correspond with the paper now produced such entries shall be admitted in evidence.

Mr. Birney offers the paper in evidence and it is marked "Exhibit Moyers Jan. 9. 1901, No. 6."

Q. The case of John Ehs is one of those stated in the schedule produced by the complainant. Have you here present the petition and power of attorney executed in March 1872, by Mr. Ehs? A. I have the original petition and power of attorney executed March 2d. 1872, five years before this contract was made.

By Mr. TUCKER:

Q. Are the subscribing witnesses there? A. I think so, I know it was executed in March 1872.

Mr. Birney offers the petition and power of attorney in evidence and it is marked "Exhibit Moyers Jan. 9. 1901, No. 7."

Mr. Tucker objects:

Objection is overruled.

Mr. Tucker notes an exception.

Q. The case of Temperance Herd administratrix of Samuel Herd, is one of those stated in the schedule produced by complainant. Have you here the petition in that case, if so, produce it and state in whose handwriting it is? A. I have. It is in the handwriting of one of my clerks, I think T. J. Healey. It was made out in my office on one of my blanks and is in the handwriting of one of the clerks in my employ. I may be mistaken as to its being Healey's handwriting. It bears date May 9th. 1887 and prior to that year I was employed in that case.

509 Mr. Birney offers the paper in evidence and it is marked "Exhibit Moyers Jan. 9, 1901, No. 8."

Mr. Tucker objects.

Objection is overruled.

Mr. Tucker notes an exception.

Hearing is adjourned to Thursday January 10th, 1901 at 10.30 a. m.

JANUARY 10TH, 1901—10.30 a. m.

Hearing pursuant to adjournment.

Present: Messrs. Tucker and Birney.

At the request of Mr. Birney the hearing is adjourned to Friday January 11th, 1901, at 10.30 a. m.

MONDAY, January 14, 1901—11 o'clock a. m.

Hearing pursuant to adjournment from January 12th, 1901, Col. Moyers having been reported by his counsel as being too ill to appear at that time.

Present: Messrs. Birney, Tucker, Edwards, Butterfield and Col. Moyers.

MR. TUCKER: I move to strike out the books of entry heretofore offered in evidence, upon the grounds heretofore stated in support of my objection to their admission in evidence, and also upon the further ground that they are not such books of account or books of original entry as would be competent or admissible evidence to show payments by the witness to the decedent.

GILBERT MOYERS having been recalled testifies as follows.

510 By Mr. BIRNEY:

Q. In your previous examination you were interrogated concerning the expenses incurred in the prosecution of the Edmonds claims, and stated that you would produce a statement of your office expenses. Have you such statement and are you able now to state more accurately what your expenses were in the prosecution of these cases? A. I have examined my books as to expenses for the years 1891, 1892 and 1893, covering the period when proof was taken in the larger portion of these cases in which Mr. Edmonds claims an

interest, or his representative. I find that the average yearly expenses—

Mr. Tucker objects to witness stating the result of his examination of his books, such testimony being incompetent.

The objection is sustained.

Q. What are the items which went to make up your office expenses during the years 1891, 1892 and 1893? A. Clerical hire, rental, commissioner or notary fees paid, travelling expenses, in short all expenses incident to the prosecution of the business.

Q. Are you able to state what were your expenses for rental for those years? A. I am not, without reference to my books.

Q. Can you state what were your outlays for clerk hire? A. I cannot, without the same reference. I can state approximately the rental, in fact can give it quite definitely. I have been occupying an office in the Washington Loan and Trust Company's building which I paid seventy-five dollars for, I think I was there two or three years.

Q. Before that, what office did you occupy and what did
511 you pay? A. I occupied an office on the second floor at 1305 E street.

Q. What was the rental? A. I think twenty dollars a month, as I calculate it now to the best of my recollection.

Q. Can you approximate the proportion which the Edmonds cases represent of your business labors during the years you have mentioned? A. From one-third to one-fourth.

Mr. Tucker moves to strike out all of the witness's testimony as to his general office expenses, on the grounds that the decedent's estate is in no way chargeable with the payment of any proportion thereof.

Q. Since the last session have you found your diary of 1890 not then produced? A. Yes sir. (Witness produces diary.)

Q. Was this diary kept as you have testified the others were kept? A. Yes sir.

Mr. Birney offers in evidence the entries as follows—

Mr. Tucker objects to the offer in evidence of any entries the entries not being admissible apart from the entire book.

Objection is sustained.

Mr. Birney states that the books will be offered for the inspection of the auditor.

The AUDITOR: The entries submitted by counsel are allowed to be offered in evidence with the understanding that the book will be filed and the entire book will be available for reference for the purposes of this account.

512 Mr. BIRNEY: Friday, January 10. 1890, "Paid Edmonds \$20;" Saturday, March 15. 1890, "Paid Edmonds \$10.00;" Friday, March 21. 1890, "Paid Edmonds \$15.00;" Thursday, November 6. 1890, "Paid Edmonds \$40.00;"—

Mr. Tucker objects to the admission of the book in evidence, upon the ground that it does not appear to be a book of accounts or book of original entries such as would be admissible in evidence herein, also upon the ground that the payments alleged to have been entered therein are not binding upon the estate of the decedent in that it is not shown that such payments were advances on the partnership account or if loans whether they were repaid *were* not, also because the book and the accompanying testimony of the witness is not admissible in evidence under section 858 Revised Statutes of the United States.

The AUDITOR: The book and testimony of the witness relating to the entries therein, is received subject to objections of counsel to be considered at some convenient stage of the reference.

WITNESS: In the course of my testimony I stated I would present the vouchers received by me for payments of fees to H. K. Martin. I now produce the receipt from his administratrix, dated March 8th. 1900.

Mr. Birney offers the receipt in evidence.

Mr. Tucker objects on the ground that it is improperly proved and also upon the ground that the payments of this sum of money in no wise binds the estate of the decedent. The receipt is filed marked "Exhibit Moyers Jan. 14 1901 #1."

513 Q. From whom did you receive this receipt? A. From the attorney of Mrs. Martin, I forget his name.

Q. Had you made the payment represented by this receipt? A. I did.

Q. Did you make any other payments to H. K. Martin, on his account, than the one for which his administratrix receipts? A. I did.

Q. Are those entries in your diaries? A. They are.

Mr. Birney offers in evidence the entries of payments to H. K. Martin appearing in the diaries of 1892 and 1893 and for convenience refers to them as follows: September 24. 1892, \$10.00; October 1. 1892, \$11.00; October 6. 1892, \$50.00; November 21. 1892, R. M. Varner case, \$9.47; November 26. 1892, \$20.00; December 25. 1892, \$50.00; May 1, 1893, \$50.00; May 16. 1893, \$50.00; June 10. 1893, \$2.50.

Q. Can you state whether these entries of payments were in cases in which Mr. Edmonds was associated with you? A. They were except possibly the Varner case.

Cross-examination.

By Mr. TUCKER:

Q. I direct your attention to the Fitzhugh case which you admit was a partnership case and in which you state you received a fee of

one-half. Please state where the contract is, upon which you acted, for the original claimant in that case. A. My recollection is that it was surrendered at the time of settlement, to the executor Samuel Fitzhugh who resides near Fredericksburg.

514 Q. Do you remember its contents? A. I remember Mr. Little was to have a certain percentage.

Q. Who was the contract between? A. I could not say.

Q. Was Mr. Edmonds' name mentioned in it? A. I am not positive.

Q. In that account you claim credit for a percentage of expenses in procuring, preparation and prosecution of the case. What did that expense consist of? A. Employment of attorneys.

Q. Who were the attorneys? A. C. C. Clements was one.

Q. Where is he to be found? A. In Loan and Trust Company's building.

Q. How much did you pay him? A. \$600.00. Another attorney was Eppa C. Hunton.

Q. How did you fix that proportion of \$600.00. A. I averaged it.

Q. How did you average it? A. By the amount of fees and from the appropriation in that bill.

Q. How much fees did you receive? A. I forgot now, this was a fair average proportion.

Q. What services did they perform in the Fitzhugh case? A. They made the usual presentation of facts before the committee.

515 Q. In which house? A. In the House of Congress.

Q. Wasn't there a finding in this case in the Court of Claims? A. There was.

Q. And you paid them after the finding had been sent to the Senate? A. Yes sir.

Q. Then it was paid for lobbying services? A. No sir, not in the sense of lobbying, not for influence.

Q. You have, in the Thornton case, a similar charge of 22.45. How did you reach that? A. The same way as in the Fitzhugh case.

Q. You averaged it in the same way? A. Yes sir.

Q. You haven't the proportion by which you made this? A. No, I can produce it however. There were also other attorneys that I paid.

Q. You here account for the fees received in the Fitzhugh, Thornton and Welborn cases. In your answer to the original bill in this case you admit that the claim of J. C. Tappan was a partnership case. Why didn't you account for that? A. The answer to the bill was drawn up very hurriedly and I had not made a full investigation of my books, I found the Tappan case I had a year or so before I knew Mr. Edmonds and it should not be charged in the partnership account.

516 Q. In the Tappan case you and Mr. Edmonds were joint partners in the presentation of the case in the Court of Claims? A. By his presentation.

Q. You have the contract? A. I have.

Q. Please produce it at the next session? A. The contract I have, would be with the decedent, Sutton.

Q. Wasn't the contract sent to you by the claimant? A. I say I had no contract with Tappan as I remember Sutton died after giving me the claim.

Q. With whom was your contract? A. With the original claimant.

Q. Have you it now? A. I may have it or his administrator.

Q. Is it your practice to give the contracts back to claimants? A. Yes sir, in the settlement.

Q. Did you do that in the Hunt case? A. I did.

Q. You gave A. Hunt the original contract? A. Yes sir, that is my recollection.

Q. Your best recollection is that you gave the contract to A. J. Hunt? A. Yes sir.

Q. Do you remember when he was here? A. I think he was here in March 1899, perhaps I can give you a definite date if you will wait a moment.

Mr. TUCKER: No, that will do.

517 Q. In the Anna Hunt case, who was the contract signed by? A. Signed by Mrs. Hunt.

Q. Do you remember what date? A. I don't remember the date, I can ascertain definitely by reference to my books.

Q. Why did you state in your testimony before the examiner that your contract was with the administratrix? A. She was the administratrix of George Hunt.

Q. Did you retain a copy of the Anna Hunt contract in your office? A. I don't think I did, if I delivered it I didn't retain a copy.

Q. As a matter of fact didn't you deliver to Mr. Abijah Hunt, in April 1899, a paper that purported to be a copy of that original contract and which copy you swore before a notary public was a true and accurate copy? A. I am not prepared to state whether I did or not.

Q. You received from Abijah Hunt something in the neighborhood of ten thousand dollars? A. I received fifty per cent.

Q. You received the sum I have stated? A. My recollection is that it was between nine and ten thousand dollars.

Q. Did you surrender the original contract or a copy to Abijah Hunt? A. My best recollection is that I gave him the original contract.

518 Q. Will you make an examination and see if you can find the original of this contract in your office and produce it at the next session? A. I will.

Q. Did you have any correspondence with Mrs. Hunt in regard to this case? A. Yes sir, voluminous.

Q. Will you present some of it at the next session? A. I will.

Q. In the claim of R. Butler mentioned in the bill of complaint, did you not state in your testimony in the court below, that you thought the petition in that case was prepared by Mr. Edmonds, and if so, why didn't you include the Butler case in your statement of account? A. Well, I had the papers before me then and I stated just what they did show because I examined them carefully, if I made that statement it is correct.

Q. If you made that statement, why didn't you include that claim in the statement of account here? A. I dealt with the attorneys down there and I think they charged fifty dollars, I gave the amount in my *I gave the amount in my original statement*.

Q. Did you not state, in your testimony before the examiner in the Gall case, that your docket showed the entry of the appearance by yourself and Edmonds in the Court of Claims, and that your impression was you received this case from Mr. Edmonds? A. I did so state.

Q. Why isn't it in your account? A. It has not been settled yet.

519 Q. It has not been appropriated for? A. I think not, it is my impression that it is now pending before Congress.

Q. If it had been appropriated for you should have accounted for it? A. Yes, sir, I think I should.

Q. Have you any of the contracts or powers of attorney with or from the claimants in the cases set out in the bill of complaint in this cause, in the files of your office? A. I don't know of any, I haven't any of the Edmonds contracts.

Q. Then those cases were Edmonds' cases? A. Only so far as I have admitted them to be, in my testimony.

Q. Have you any of the contracts with, or powers of attorney from the claimants in the cases described in the Exhibit No. 1 to the bill of complaint in this case?

The WITNESS: You mean given by Edmonds?

Mr. TUCKER: No.

A. I cannot say what I have at the office, I may have some contracts but very few as these cases were mostly represented by administrators and I generally return the contracts to the administrators to be used in their settlement of the estate. I may have some powers of attorney.

Q. Where you returned the contracts to the administrators did you make no memoranda on your dockets or among your papers, that you had made such disposition of the contract? A. Where I sent them by letter the letter press copy book will show, where the settlements were made here I did not make any entries but just turned the papers over.

520 Q. Will you produce at the next session any of such contracts or powers of attorney, or copies of any such letters, you may have in your possession? A. I will.

Q. Have you any memoranda showing the payments for expenses, that you made in the cases received from George B. Edmonds set

out in your account heretofore filed? A. I have in some of them, in fact the memorandum presented today for money paid Martin and also Mr. Jordan, relate mainly to those cases.

Q. Are those the only memoranda you have? A. I have receipts from Mr. Shelton and there may be, among my old papers, other receipts.

Q. The receipts and memoranda you have mentioned are the only ones you have been able to find so far? A. I cannot say, there may be some at the office I have not had occasion to—

Q. Please explain why, conducting as you did in partnership with Mr. Edmonds, from one-fourth to one-third of the cases that you had, you kept no books of account as managing partner showing your receipts and expenditures in such cases? A. One reason was this, I could not keep an accurate account as to particular cases because a man travelling as my representative or travelling myself in taking testimony would have other cases at different places and it was only as to the commissioners' fees that it could be possible to. In short, my expenses were lumped. I would pay a commissioner

521 thirty, forty or fifty dollars in sundry cases without specifying the exact amount in each case, He might have taken testimony in more than one case, He simply got what was the usual fee in taking testimony.

Q. So you assumed that in these various cases you paid the commissioners' fees and travelling expenses? A. I haven't assumed anything, I stated it as a fact as shown by Shelton, stated as fees paid him as shown by fees paid through Mr. Martin and others.

Q. Have you got any copy or particular account of your expenses, thus, how do you make up one now? A. I made it up by what was the — of the charges.

Q. And you assumed that you made such payments? A. I did.

Q. You have produced, have you, all memoranda and receipts that you have to show the payments made by you on account of expenses in the Edmonds cases? A. All that I have found thus far, I may find others, if I do I will produce them.

Q. In the matter of the three cases mentioned in the bill of complaint but not included in Exhibit No. 1, namely that of J. E. Burgwin, that of William T. Fauber, and that of Richard Mayse, please state whether you received the appropriations to pay the judgments in those cases. A. I recently received the fee in the case of J. A. Burgwin, administrator of Dorsey S. Deloatch.

Q. How much? A. My recollection is twenty-five per cent.

Q. That would be how much money? A. One-third or one-fourth of \$315.00.

522 Q. Can you make sure of that in any way? A. I can by reference to my books.

Q. Will you do so please? A. Yes sir, and will do the same thing in the case of Fauber and Mayse.

Q. You have testified you made certain payments to a Mr. Jordan on account of some of these Edmonds cases, as appears from

memoranda of payments taken from your diary. State how you know those payments were made on account of the Edmonds cases?

A. Because he was working on the Edmonds cases at that time.

Q. In what particular locality was he working when you made these payments? A. He was for some time at Corinth and I think he was at Port Gibson, Miss., and possibly at Oxford, Miss.

Q. Please name the cases in which he acted? A. I could not without my docket.

Q. Please ascertain the names of those cases and testify concerning them at the next session? A. I will.

Q. In the case of George Show, by your supplemental answer you state that you didn't receive the appropriation to pay the judgment. Will you kindly explain why you didn't prosecute that case to a completion and receive the fee? A. Because there was another attorney in the case.

Q. Who was he. A. I forget now, I gave it in my testimony.

523 Q. It appears that George W. Z. Black who was the attorney before the commissioner of claims in that case, filed a petition in the Court of Claims, January 6; 1890, presented the case and received the fee, but it also appears in the files of the Court of Claims there is a power of attorney to Edmonds dated February 6th. and filed in the Court of Claims May 1. 1888, and you and Mr. Edmonds entered your appearance in that case May 8th. 1888. Why, if this is so, didn't you continue the prosecution of this case of Show's to completion instead of allowing yourself to be substituted by another attorney?

Mr. Birney objects to the question as the records in evidence only show an appearance was filed by Edmonds in which Moyers' name is mentioned, but does not show that Col. Moyers filed an appearance or had any knowledge of the case at any time.

The auditor states that presumably in a partnership of this kind one partner has the right to sign the partnership appearance in a case and the other partner is supposed to have knowledge of the case.

The objection is overruled.

A. I know nothing about the case, it wasn't entered upon my dockets. Mr. Edmonds superintended the entry of his cases upon my office dockets as will show when the dockets are produced here, and this case was never furnished me by him, nor did I have any knowledge that Black was the attorney before the commissioner of claims. I never was recognized as attorney nor did I ever 524 sign to be recognized, I know nothing about the case. And the same condition of affairs existed in the case of M. C. Baylor.

Q. Does the explanation you have given apply equally as that of the Show case? A. It does.

Hearing is adjourned to Wednesday, January 16th, 1901, at two o'clock p. m.

WEDNESDAY, January 16th, 1901—2 p. m.

Hearing pursuant to adjournment.

Present: Messrs. Birney, Tucker, Butterfield, Edwards, and Moyers.

GILBERT MOYERS, recalled having been recalled for further cross examination testified as follows:

By Mr. TUCKER:

Q. Referring now to your payments to C. C. Clements and Eppa Hunton, please state again the aggregate amount you paid them for services? A. \$8,500.00.

Q. For what was that payment made? A. For services in Congress.

Q. In what matter? A. Securing the appropriation to pay this and other claims.

Q. Were you to pay them a proportion of the amount of fees you should receive in the cases they performed services in? A. No.

525 Q. How was your fee to them to be paid? A. By contract specifying the amount, \$6,000.00 to C. C. Clements and \$2,500.00 to Hunton.

Q. How did you reach the item of \$625.00 that you mentioned in the Fitzhugh case? A. As I explained before.

Q. Please explain again? A. By the aggregate amount of my fees.

Q. In what cases? A. In cases covered by the appropriation.

Q. What appropriation? A. The Bowman bill.

Q. Was that the act of March 3d, 1899? A. Yes sir.

Q. What amount of fees did you receive from cases appropriated for by that act? A. I haven't been able since the last adjournment owing to the fact of being occupied yesterday in the chancery court. To aggregate that sum so, I cannot now give an accurate answer but will do so.

Q. Can you state approximately the amount of fees you received? A. I should say from \$120,000.00 to \$130,000.00, more or less.

Q. Have you been able to find the original contract or fee agreement in the Fitzhugh case? A. I have not.

Q. Do you know where it is? A. I think it must be in the hands of the administrator there was no disagreement about the fee.

526 Q. Did you ever see the original contract? A. Oh yes.

Q. Was it ever in your possession? A. It certainly was.

Q. Do you remember its contents, if so, state what they were? A. The contract was for fifty per cent.

Q. And signed by whom? A. It was signed as I recollect, by the administrator.

Q. By the terms of that contract to whom was the fee payable? A. I am not able to state whether it was a joint contract to Edmonds

and myself or to Edmonds individually but I am certain that I had a contract.

Q. Do you remember the date of that contract, if so, state it? A. I do not.

Q. Have you been able to find the contract or fee agreement in the Tappan case? A. No, I haven't.

Q. Have you made a search for it? A. I have made a partial search. The contract in that case was to me individually, I had the case long before I ever knew Mr. Edmonds.

Q. Where is the contract? A. I told you I could not find it, it may be among the files of my office or have been returned to Tappan.

Q. Have you before you the office files in that case? A. I have.

527 Q. The Court of Claims or your office files in that case? A. I have in my hands the court papers in that case.

Q. Is there a power of attorney among those papers? A. I find a power of attorney in the original claim before the commissioner of claims, to Edward Wheeler of Little Rock, Arkansas, I find no other power of attorney in the case.

Q. Is there any entry of appearance by Edmonds and yourself in that case in the Court of Claims or files? A. Yes sir, I find an appearance that was evidently filed by Mr. Edmonds as it bears his handwriting as I recollect his penmanship. This was filed November 9th.

Q. Please produce it? A. I was trying to make out the date of filing. (Hands paper to counsel.) November 9th is the stamp mark and looks like 1888.

By stipulation of counsel a copy of the entry of appearance mentioned by the witness and taken from the files of the Court of Claims in the case of Sumner I. Sutton is here copied in the record as follows—"No. 5160 Cong. In the Court of Claims. December term 188-, 188- Samuel I. Sutton vs. The United States. Appearance Filed by Moyers and Edmonds att'ys for claimant." (Filed Nov. 9 is the stamp mark with the year so badly blurred as to be indistinguishable.) The body of the entry of appearance is as follows—

"In the Court of Claims. December term 18-. —18. Sam-
528 uel I. Sutton vs. The United States No. 5160 Congressional
Appearance. Notice is hereby given of my appearance as
attorney for the claimant in the above entitled case. Moyers &
Edmonds attorneys." The appearance is in a printed form with a
printed signature "Gilbert Moyers" attached thereto, the word
"Gilbert" is erased by a pen mark being drawn through it, and the
name Edmonds substituted therefor.

Q. This appearance is on one of your printed blanks? A. It is.

Q. After the filing of this appearance in the Court of Claims what is the next paper among the files bearing your name? A. I could not say whether it is after or before because the year is in-

distinct, it can only be determined by reference to the dockets of the court or my own dockets, but my dockets would not show the filing of that appearance.

Q. Name some of the other papers among those filed that were filed by you? A. Here is a motion filed by myself as the attorney on December 18th, 1889, requesting that the original petition stand until loyalty is determined. That is on one of my blanks.

Q. You filed this last named paper? A. It purports to have been filed by me.

Q. Do you recognize the handwriting upon it in the title, is that by yourself or one of your clerks? A. I should judge that is in the handwriting of Mr. Beardsley or possibly Mr. 529 Healey.

Q. Both your clerks at that time? A. Beardsley was there at that time I think.

Q. Subsequently to the filing of that motion who appears from the papers filed, to have acted as attorney in that case? A. Myself, solely.

Q. At the time of filing of this motion and at the time of filing subsequent papers in that case by you, you were in the habit of examining the court files in that case? A. I have no doubt I examined it.

Q. You knew then of the existence of this appearance by Moyers & Edmonds? A. I must have done so.

Q. Did you ever move to strike out the appearance of Moyers & Edmonds? A. No, because it wasn't necessary, I was the sole attorney recognized in the court.

Q. Where is the contract with the claimant in that case? A. I haven't been able to find it as yet.

Q. Have you been able to find any trace of it among your office papers or in your letter press copy book? A. No, I haven't, but there was no dispute between Tappan and myself as to the fee I was entitled to, I had an extensive correspondence with him and think it is here in the jacket. (Witness produces a jacket of papers) So far as correspondence is concerned I have part of the correspondence here. There was a letter in regard to this case showing my employment of date of August 20th, 1885.

530 Q. What are you reading from? A. From memoranda I took at the time of examination.

Mr. Tucker objects.

Q. Have you been able to find any trace of it among your office papers or in your letter press copy book? A. No sir.

Q. Will you make any further search possible and produce this contract or some paper showing what disposition you made of it if possible, at the next hearing? A. I will.

Q. Now referring to the claim of Anna Hunt, have you been able to ascertain from your letters or letter press copy books, what disposition you made of that contract? A. I haven't been able.

Q. Have you refreshed your recollection so as to say you delivered to Abigail Hunt the original contract or a copy of it? A. It is my impression that when Mr. Hunt came here to make a settlement and receive the money coming to the estate, that he told me he had no question as to the contract between myself and his mother the former administratrix of the estate, and he suggested to me that he should have the original contract which he was satisfied was fifty per cent. or have a certificate from me showing that fact. I may have given him a certificate but have no recollection.

Q. Didn't you as a matter of fact give Abijah Hunt a paper purporting to be a copy of that original contract containing an affidavit by you that that was a true copy of the original contract with you? A. I have answered that question as definitely as I can.

Q. Have you, since the last session, made a search for the original contract with Mrs. Anna Hunt? A. I have not.

Q. Why? A. I haven't had the time.

Q. Will you make a search and produce that contract if you have it, at the next session? A. I will.

Q. Have you been able to find any correspondence with Mrs. Hunt in regard to that claim, among your papers? A. I had a great deal of correspondence with her in her lifetime. I am not certain whether I have it here or not. I hold in my hand a package of letters and other papers received from Mrs. Hunt in the regular course of business in the prosecution of this claim.

Q. Will you let me look at it? A. With pleasure. (Witness hands counsel the package.)

Mr. Tucker offers in evidence the papers just produced by the witness from his files in the case of Anna Hunt.

Mr. Birney objects.

The auditor states that he will allow the papers to be filed subject to the objection.

Mr. Tucker offers in evidence the whole mass of papers just produced by the witness in this cause, for the purpose of showing 532 that his entire correspondence with the claimant Mrs. Hunt and those acting for her, postdated the date of the contract between her and Mr. Edmonds, and Mr. Edmonds' correspondence with her and with those who represented her, so as to show that the witness's connection with this claim postdated Mr. Edmonds' connection with it.

Mr. Birney objects.

Auditor states that the papers may be filed subject to objection, their competency to be determined hereafter.

Q. You have stated that the case of Jasper Gall was not included in your account filed before the auditor because that case was not appropriated for. Have you been able since the last session to refresh your memory or to ascertain as a matter of fact whether or not that case was appropriated for? A. I have not. It may have been.

Q. If it had been appropriated for, should not the fee received for it been included in your account? A. I have to state in regard to that particular case, that upon investigation and examination I find that case was originally presented to the commissioner of claims by Mr. Niles an attorney of Washington, who transferred his business to me to look after before Congress and the courts, early in the '80's soon after the passage of the Bowman act. Therefore I had charge of this case prior to my knowledge of the existence of a man named Edmonds. Furthermore, Mr. Edmonds never claimed this case by entering his name on the margin of the dockets. I have the dockets here.

Mr. Tucker moves to strike out the last part of the answer
533 of witness on the ground that it is prohibited by section 658
of the Revised Statutes of the United States as being a trans-
action with the deceased.

WITNESS: Having the papers now in my hand I find that this case was, beyond doubt, filed by Mr. Samuel V. Niles.

Q. Did you not state in your testimony before the examiner that your dockets showed the appearance of Mr. Edmonds and yourself in the Court of Claims? A. I think I did.

Q. Why, if you got that case from Mr. Niles, did you allow Mr. Edmonds to enter his name on your docket? A. Not on the dockets, Mr. Edmonds had access to the papers in my office, he was very intimate with Beardsley and I see he used one of my blanks, using the name of Moyers & Edmonds, erasing my name.

Q. Will you please produce your docket showing this entry. I read from page 62 of the record of testimony taken before the auditor at the last session, "Did you not state, in your testimony before the examiner in the Gall case, that your docket showed the entry of the appearance by yourself and Edmonds in the Court of Claims, and that your impression was you received this case from Mr. Edmonds? "I did so state." "Why isn't it in your account?" "It has not been settled yet." "It has not been appropriated for?" "I think not, it is my impression that it is now pending before Congress." The question now is whether, if as a matter of fact,
534 that claim had been appropriated for, why you didn't include the payment in the account filed before the auditor?

A. For the reason as stated, that I found this case was represented by Mr. Niles and Mr. Niles employed me to look after these cases before the commissioner of claims and have them entered and prosecuted. Hence I do not regard this case as an Edmonds case at all, that is, a case coming to Mr. Edmonds through my knowledge.

Q. You were called upon at the last session to produce any contracts with, or powers of attorney, from the claimants in the cases set out in Exhibit No. 1 attached to the bill of complaint in this cause. Have you been able to find among your private papers or records, any such powers of attorney, if so please produce them? A.

I have found some. I have here a fee agreement in the case of James W. Harding, administrator, of James H. Maury.

Mr. Tucker offers in evidence the paper just produced by witness.

WITNESS: I prefer to leave a copy.

Witness here produces the original of a fee agreement, dated September 7th, 1896, signed by James W. Harding, Port Gibson, Miss., in presence of Charles S. Mason and W. D. Reiders, by the terms of which he employs Gilbert Moyers of Washington, D. C., as his attorney to prosecute the claim of his decedent against the Government and Congress; to pay him a fee of fifty per cent. It is agreed between counsel that the abstract here given of the same, shall
535 be considered in evidence in lieu of the original.

WITNESS: I have here a fee agreement in the Henry T. Cate case, and the power of attorney in that case, as I understand, has been filed. It was executed January 27 1888 to me. I think it must be an exhibit to the deposition.

Mr. Tucker offers in evidence the paper here produced by witness.

WITNESS: In the case of John P. Davidson I have letters and files showing the settlement of that case and to whom the fees went.. It also shows the contract.

Mr. TUCKER: I did not call for that paper.

WITNESS: I don't notice any more contracts or powers of attorney that I have here, but doubtless there are others in the office which I will be able to produce.

Q. Do I understand you have no other powers of attorney or contracts to produce today? A. I don't see any.

Q. If you have any will you produce them at the next session? A. I will.

Q. Have you your letter press book showing the copy of any letter of transmittal of any original contract or power of attorney in any of the cases mentioned in Exhibit No. 1 to the bill of complaint? A. I have before me my letter book containing a press copy of the letter showing the disposition of the fee-agreement made in the John P. Davidson case.

(Witness here produces a copy of the letter which reads as follows,) 536

"JULY 1, 1899.

E. P. Treadway, lawyer, Rome, Ga.

DEAR SIR: As per instructions of the 29th ultimo., I have on this day mailed to the First National Bank of Rome, the warrant of Manervia C. Davidson administratrix of John P., for \$1,830.00, together with my fee agreement for fifty per cent., receipt for \$915.00 and your letter, with instructions to the said bank to remit me my fee by eastern exchange. Please have her collect at the bank."

Mr. Tucker offers the copy of the letter in evidence.

Q. Have you any other copies of letters in your letter press book, showing any disposition you may have made of your fee agreements, of a character similar to the one just produced? A. That is the only one I have here, there may be others at my office.

Q. Will you kindly produce them at the next session? A. I will.

Q. Have you been able to ascertain how much money you received from the appropriation in the case of J. A. Burgwyn, administrator of Dorsey S. Deloatch? A. As I stated before, my fee in that case was twenty-five per cent.

Q. How much money did you receive? A. Twenty-five per cent.

Q. I want the amount of money? A. I can't give you the amount without having my books here.

Q. Will you produce your books here showing the amount you received? A. I will.

537 Q. If the appropriation in that case was \$315.00, how much of that amount appropriated did you receive? A. Twenty-five per cent. of that sum.

Q. Why didn't you receive one-half? A. Because the contract didn't provide for one-half.

Q. Where is the contract? A. I had no contract, it was by agreement with the administrator. I had no contract.

Q. And after the appropriation was made you consented to take twenty-five per cent. of the amount appropriated? A. I consented to do that because it was the best terms I could get. They had received the money by the fact of the draft being sent direct.

Q. In the cases of Fauber and Mayse, have you been able to ascertain what, if anything, you received from the appropriation in those cases? A. Mayse? I don't remember any such case. According to my recollection that was one of the cases in which I wasn't the attorney.

Q. Do I understand you to say you were not attorney in the case of Mayse? A. That is my impression.

Q. How much did you receive in the Fauber case? A. I could not give it without reference to my books.

Q. Will you produce your books of entry such as will give the information sought, and present it at the next session? A. I will.

538 Mr. Tucker calls for the production of all the office files in Col. Moyers' office relating to the cases mentioned in Complainant's Exhibit No. 1 to the bill of complaint.

Hearing is adjourned to Monday, January 21, 1901 at 2 p. m.

MONDAY, January 21, 1901—2 p. m.

Hearing pursuant to adjournment.

Hearing is further adjourned to Wednesday, January 23, 1901, at 2 p. m.

WEDNESDAY, *January 23, 1901—2 p. m.*

Hearing pursuant to adjournment.

By agreement of counsel the hearing set for this hour is continued to Monday, February 4, 1901, at 10 o'clock a. m.

MONDAY, *February 4, 1901—10 a. m.*

Hearing pursuant to adjournment.

Neither the counsel or parties appearing, the reference is continued subject to notice.

TUESDAY, *April 2d, 1901—2 o'clock p. m.*

Hearing pursuant to notice. A short time prior to the hour of hearing, Mr. Birney appeared and stated that he was engaged in the trial of a case in the circuit court and would be unable to go on to-day in this case.

At the hour of hearing, Mr. Tucker appeared and at his request the hearing was continued to Wednesday, April 3d. 1901, at two o'clock p. m.

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WEDNESDAY, *April 3d, 1901—2 o'clock p. m.*

Hearing pursuant to adjournment.

Present: Mr. Tucker and Mr. Birney.

With the consent of the solicitors for both parties, it is ordered by the auditor that the defendant, Moyers, close his testimony in this reference within two weeks from this date, and that the complainant, Cummings, shall close testimony on his side within two weeks thereafter.

The reference is continued subject to notice.

FRIDAY, *January 11th, 1901—10.30 a. m.*

Hearing pursuant to adjournment.

Present: Messrs. Tucker and Butterfield.

A message having been received from Mr. Birney stating that Col. Moyers was too ill to appear, the hearing was adjourned to Monday, January 14th, 1901 at 10.30 o'clock a. m.

WEDNESDAY, *April 17th, 1901—10 o'clock a. m.*

Hearing pursuant to agreement.

Mr. Birney appeared and filed a certificate of Dr. Bulkley to the effect that the defendant, Moyers, was ill and unable to appear, and would be unable to appear for five days.

Mr. Birney also stated that he had notified Mr. Tucker.

Hearing is adjourned subject to notice.

FRIDAY, May 3d, 1901—10.30 a. m.

Hearing pursuant to notice.

Present: Mr. Tucker and Mr. Birney, Mr. Butterfield and Col. Moyers.

It is stipulated between counsel that the defendant is to close his testimony within the next ten days, and that the complainant is to have two weeks thereafter in which to close his testimony.

Mr. BIRNEY: Counsel for the complainant has heretofore called for the files or any letters attached, in the case of Mrs. Anna Hunt, administratrix, referred to in the exhibits to the bill of complaint. Counsel for the defendant now produces four letters dated respectively, December 14th, 1887, September 15th. 1888, June 21st. 1890, and November 28th. 1890. The first two signed by A. E. Newton, who states himself to be the son in law of Mrs. Anna Hunt, and the second two signed by Mrs. Anna Hunt. All four letters being addressed to Gilbert Moyers.

The four letters are offered in evidence and marked Exhibits M, May 3/01.

GILBERT MOYERS having been recalled by Mr. Tucker for further cross-examination testifies as follows:

By Mr. TUCKER:

Q. Have you been able to find the fee agreement in the Anna Hunt case? A. No sir, it was lost and I gave a certificate at the time I settled, to the effect that it was lost.

Q. Did you keep a copy of this certificate? A. I did not.

Q. Tell us as nearly as you can, what this certificate contained? A. It contained a statement of the agreement between Mrs. Hunt and myself as to the payment of the fee for the collection of 541 the claim, I to put up all expenses. There was no dispute between us about that fee.

Q. It was signed by whom? A. By myself and Mrs. Hunt.

Q. Were there any subscribing witnesses to the fee contract? A. In a great many cases where the signature of the claimant is known these papers are not witnessed.

Q. When did you first discover that this original contract with Mrs. Hunt was lost? A. I discovered it when I came to search for it at the time of settlement when Abijah Hunt came on.

Q. Did you tell him that you had lost it? A. I did.

Q. And the paper that you gave him did not purport to be a copy of the original contract and did not state that it was a copy? A. It stated the terms of the contract and that was in lieu of the contract. It was given to him so that he could settle the estate.

Q. As a matter of fact didn't the paper that you gave to Abijah Hunt when he came to Washington to settle the claim of Anna

Hunt administratrix, purport to be a true copy of your alleged contract with Mrs. Anna Hunt, and not a mere certificate of the contents of that paper? A. It may have been. I made a certificate that it was a true and correct copy as to the amount of fee I was to receive in the event of success.

Q. How could it have been a true copy if you had lost the
542 contract? A. I had the blank form I had used and which I kept in my office.

Q. Have you had only one form of that blank which you use? A. Since the Court of Claims has had control of these cases I have had only the one form.

Q. What you did was to fill out a blank form of contract and swear that that was a copy of the contract between Mrs. Anna Hunt and yourself, while the original contract was lost? A. It purported to be substantially as I stated, that it was a copy.

Q. Did you swear at the time before a notary public that it was an exact and actual copy of the original contract? A. Probably I did.

Q. The original contract was lost and you did not have it at hand? A. Yes sir.

Q. Have you your letter press books for the years 1887 and 1888? A. They are at my office, I did not bring them down because I didn't know that you requested the letter books. I can send for them.

Q. I should like to have you present those books either at this or the next session. A. I will.

Q. It appears from the testimony taken before the examiner in this case that Bartley & Jenner and Adams & Speed were the original attorneys before the Southern Claims Commissioner in 543 the Anna Hunt case. That being so, how do you account for your appearance for Mrs. Anna Hunt? A. There was no one connected with the case that was living except Mr. —— and the case had been rejected by the Southern Claims Commission.

Q. Then as I understand, any claim that was rejected by the Southern Claims Commission could be taken up by any other attorney and prosecuted? A. No sir, not if the attorney or record was living, in this case Mr. —— who was the only one connected with the case, that was living, did not appear as the attorney of record.

Q. I understand that you discovered the loss of this Anna Hunt fee contract at the time Mr. Abijah Hunt came to Washington to secure a settlement of the claim? A. I said, either then or shortly before. I commenced a search for it when I sent for him.

Q. Discovering its loss you gave him this copy? A. He requested that in order that he might settle the estate.

Mr. Tucker offers in evidence a copy of a fee agreement between John P. Davidson and Gilbert Moyers, dated January 9th. 1893, and the copy of a receipt signed by Gilbert Moyers for \$915.00 given by Manervia C. Davidson, administratrix, together with a certificate of

the clerk of court of ordinary of Floyd county, Georgia, with the same, that the papers mentioned are correct copies of originals which appear of record in his office.

544 It is stipulated between counsel that further or other proof of the copies of the documents mentioned, shall not be required, but the copies here introduced in evidence shall be received in lieu of the originals.

Q. Have you produced here your office files relating to the cases mentioned in Complainant's Exhibit No. 1 to the bill of complaint?

A. I have all, with one or two exceptions, I think.

Q. Will you produce your office files in the case of H. L. Cate?

A. That is one of the two or three I failed to find.

Q. Have you your docket containing any entries made in that case? A. Yes, but cannot find the index of it.

Q. Have you your office papers in the case of J. C. Tappan administrator of — Sutton? A. Yes sir.

Q. Please produce them? A. Here they are. (Hands counsel the papers.)

Q. Have you the docket entries in this case with you? A. Yes sir. (Produces them and hands to counsel.)

Q. Now in the case of R. Butler, have you your office papers here? A. Yes sir. (Witness produces papers.)

Q. Do I understand you to admit that the Butler case was one of the cases in which you were jointly interested with Mr. Edmonds and do you admit it now? A. Yes sir.

Q. You have heretofore submitted the office papers in case of the claim of John P. Davidson? A. I don't know that I have, they are here now. (Witness produces papers.)

Q. I find in your office jacket in the Davidson claim a power of attorney to yourself from John P. Davidson dated January 9th, 1893. Is that the power of attorney under which you prosecuted the claim? A. I am not certain whether I received a power of attorney prior to that date or not, the case was referred to the court in 1889. That power of attorney I received from A. W. Ballew the local attorney in F—. I find no papers antedating 1893 in this jacket in the Davidson claim.

Q. On January 12th 1893 appears to be a letter from Mr. Ballew addressed to you stating that he encloses powers of attorney and fee contracts in the cases of Mrs. Griffith and J. P. Davidson, and in this letter the writer offers to divide the fee of fifty per cent. in these cases with you, or did your connection with the Davidson case commence with that correspondence? A. No sir, I got that case referred to the court myself as early as February 1889 and by a mistake of Mr. Healey and Mr. Edmonds they entered it as one of the Moyers and Edmonds cases, it was not and ought to have been changed. I made a complaint about it at the time. Mr. Ballew was the correspondent in the case prior to that time

546 and in settlement with him I paid him half the fee.

Q. Where is your fee contract? A. The fee contract was sent to Mr. Ballew.

Q. When? A. About sometime in July.

Q. What year? A. 1899, and the fee agreement was sent there to be used in the settlement of the estate.

Q. When? A. A few days previous. Mr. Ballew is entered on my jacket as local attorney. I haven't got the exact date.

Q. What I want is the date of that fee agreement? A. The date he sent the power of attorney, probably.

Q. What date was that? A. January 9th 1893.

Q. Then you prosecuted the claim in the Court of Claims before you had a fee agreement? A. None that I can find. Mr. Ballew had some correspondence before that date.

Q. Have you got the office papers or letters showing the connection you had with the case prior to 1893? A. Undoubtedly.

Q. There are no such papers in the jacket you just handed me? A. No sir, I didn't commence making jackets at a very early date in this claim, and the letter of course went into the general files in some cases. I have gone through the general files and taken 547 out the letters, I had correspondence about the case as early as 1889, it went to the court in February 1889. It was one of the cases in which Mr. Ballew was interested.

Mr. Tucker offers in evidence the docket entries of the defendant in the claim of John P. Davidson contained in docket marked H, page 20, here produced.

Q. Let me look at the docket entries in the case of W. R. Welborn? A. Yes sir. (Produces docket.)

Mr. Tucker offers in evidence the docket entries of the defendant in the claim of William R. Welborn contained on page 187 of docket H.

Q. Have you the office papers in the case of J. Gall? A. Yes sir. (Produces papers and docket.)

Mr. Tucker offers in evidence the docket entries of the defendant in the claim of Jasper Gall, Iberia, Louisiana, to be found on page 38 of docket H.

Mr. TUCKER: I take from the jacket you have just handed me in the Jasper Gall case, a card containing the following endorsement in pencil, "Jasper Gall 6828, this case I have admitted was received from Edmonds or at least have that impression." Did you write that? A. Yes sir, that is my handwriting.

Mr. Tucker offers the card in evidence.

Q. Have you the office papers and docket entries in 548 the case of S. Bagnell administrator of S. Braboy? A. Yes sir. (Produces papers and docket.)

At this point the hearing is adjourned.

TUESDAY, May 7th, 1901—11 a. m.

Hearing pursuant to adjournment.

Present: Messrs. Tucker, Birney, Edwards and Col. Moyers.

GILBERT MOYERS having been recalled for further cross examination testifies as follows.

By Mr. TUCKER:

Q. Have you the papers and docket entries in the case of S. Bagnell administrator of S. Braboy? A. Yes sir, they are here.

Witness produces papers and docket entries.

Q. I do not find in the office files of the claim of S. Bagnell, administrator of S. Braboy, any fee contract with the claimant or representative of his estate. Did you have such a fee contract? A. I had a fee contract.

Q. Where is it? A. I could not find it. It is dated away back in the 70's, I made a settlement with him at fifty per cent.

Q. Where is the contract? A. I could not find it. I am not certain whether I gave it to him or not.

Q. I find no papers in your jacket antedating 1892. Have 549 you any papers now, prior to that date? A. As I said, prior to a certain time I kept no jackets and I have gone through my letter files to the extent of my ability to find all papers relating to these things and to place them in their jackets.

Q. In this particular case you could find no correspondence antedating 1892? A. I suppose not.

Q. Let me look at your docket please?

Witness hands docket to Mr. Tucker.

WITNESS: I wish to say that when claims were disallowed by the commissioners of claims there being no other remedy offered by the courts these claims were abandoned, and not until the passage of the Bowman act was there any way of relief. In that way possibly some of my cases were destroyed or laid aside as being dead, among my dockets.

Q. I find no entry on your docket, or the page devoted to this claim of S. Bagnell administrator, prior to 1890, when there is this entry, "March 1890, to Court of Claims." Does that date indicate when you first became connected with that claim? A. Certainly not. It indicates when I first became connected with this case in the Court of Claims, and these are dockets in the Court of Claims.

Q. I see the docket entries in the matter of this claim are headed as follows,—on page 257 docket H., "S. Bagnell, administrator Page 550 Braboy heir of Tena Braboy deceased, Hines county, Mississippi." Why was the name of Page Braboy as heir of Tena Braboy entered on your docket? A. Because I was advised by Mr. Bagnell that Tena Braboy was dead and had left this heir who was interested in the claim.

Q. Was the contract with Tena Braboy? A. It was in charge of Mr. S. Bagnell who was the attorney in the case there, and I proceeded to prosecute the case upon an equal share with him in the fee.

Q. But you find no correspondence prior to 1892? A. No sir.

Q. I would like to see the docket entries in the case of Mrs. Anna Hunt? A. Here they are.

Witness produces docket G page 93 containing entry of the Anna Hunt claim.

Q. The next case is that of Mrs. H. E. Ladd. Have you your office papers and docket entries in that case? A. Yes sir.

Witness produces jacket and entry on page 167 docket K.

Q. Have you got the contract with the claimant in this H. E. Ladd case? A. I think not. My recollection is, that I sent that contract down there to the administrator to be used in the settlement of the estate. It is a case I had with Col. McAllister before the commissioners of claims.

Mr. Tucker offers in evidence the office papers and docket entries produced by the witness in the H. E. Ladd case. Mr. Birney objects to the papers being offered in bulk. The auditor states
551 that the papers may be offered and filed subject to the objection.

Q. In the case of J. Harding, administrator, I hand you a paper taken from your office files, purporting to be a fee contract with James M. Harding, administrator, with yourself, dated September 7th. 1896, whereby he agreed to pay you a fee of fifty per cent. in that claim. I call your attention to a docket entry in your docket H, page 298, showing that the appearance was filed in the Court of Claims in that case in 1890, and ask you to explain why the contract was entered six years after the appearance was entered in the Court of Claims? A. This fee contract was apparently given to replace one that was lost, as I had this contract away back in the 80's before the commissioners of claims.

Q. I find no correspondence in the jacket relating to this Harding claim antedating 1890. If you had any connection with that claim prior to that date how do you account for the absence of any correspondence? A. As I explained before, these are Court of Claims jackets and they contain only correspondence and papers that were connected with the case in the Court of Claims, and have no connection with or relation to any proceedings had previously before some other tribunal. The same with the dockets.

Q. In the case of W. Williams administrator, have you the office papers and docket entries in that case? A. Yes.

Witness produces papers and entry of page 136 of docket E.

552 Q. Did you have any contract with the claimant in this Wilson Williams claim? A. I did.

Q. Where is it? A. It was sent to the administrator or lost or mislaid.

Q. Do your letter books show whether it was sent to the administrator or not? A. Among the docket entries in the case of Wilson Williams administrator of R. Williams, is one showing that on May 14th.; 1888, I filed a power of attorney which I do not find among the Court of Claims papers now.

Q. Now in this case of J. Hornbacher, have you the office papers and docket entries in the matter of that claim? A. Yes.

Witness produces papers and entry of page 247 of docket I.

Q. Did you have any contract or fee agreement in the Hornbacher case with the claimant? A. I am not prepared to state whether I had or not. I generally make contracts but I do not find any in the jackets. Mr. Gray had to do with that case and he may have possibly retained the contract.

Q. Have you any office papers or docket entries in the case 553 of Thomas W. Russell? A. That was not my case. That case was prosecuted by Mr. Dye.

Q. Have you any entry of it on your docket? A. No.

Q. Now in the claim of M. C. Baylor have you any papers or docket entries? A. No, I never had the case.

Q. Have you examined your dockets to see whether you have any entries in the Russell or Baylor cases? A. I have.

Q. In the J. L. Roberts and George Shaw cases have you any docket entries? A. No sir, they were not mine, they were prosecuted by Mr. Black.

Q. Have you examined your dockets to see if you have any entries in those cases? A. Yes sir.

Q. Have you the office papers or any docket entries in the case of J. A. Burgwyn administrator of Dorsey S. Deloatch? A. Yes sir.

Witness produces papers.

Q. Did you have a contract or fee agreement in the Deloatch case? A. I do not think I did. I had some considerable correspondence with the administrator before I could secure a settlement and I was finally obliged to accept a fee of twenty-five per cent. as the warrant had been sent direct to the administrator.

554 Q. How do you account for the fact that you did not have a fee agreement? A. I do not know. At all events I could not produce a contract when the claimant died, and consequently I had to accept the offer of the administrator and finally made a settlement on the basis of twenty-five per cent.

Q. Did you find the docket entries in the Deloatch case? A. Yes sir.

Witness produces entry on page 111 of docket I.

Q. In the case of William T. Fauber have you any office papers and docket entries? A. Yes.

Witness produces papers and docket.

Q. I find among the office papers a power of attorney in the Fauber case dated May 21st, 1891. Did you have any previous connection with the case? I also find a fee agreement of the claimant in that case with one G. W. Graham dated May 21st, 1891. Did you have any previous connection with that case? A. I think not, I think Mr. Graham sent me the contract and fee agreement.

Q. Have you the docket entries in that case? A. Yes sir.

Witness produces entry of page 238 of docket K.

WITNESS: By the entry on the margin there it seems that I received that case from Mr. Graham as I stated.

555 Q. Are the Court of Claims papers in that case here? A. I think so.

At this point in the hearing a recess is taken until one o'clock p. m.

MAY 7TH, 1901—1 p. m.

Hearing after recess.

Present: Messrs. Tucker, Birney, Edwards and Moyers.

GILBERT MOYERS having been recalled for further cross examination testifies as follows.

By Mr. TUCKER:

Q. Have you produced your letter book in regard to the Williams case? A. The only record I have is June 7th, 1899, I received \$115.50 fee on the collection of \$237.00. I sent the fee agreement in the case of Wilson Williams to the cashier of the Merchants & Farmers Bank of Oxford, Mississippi, May 31st, 1899, as shown by my letter book containing copies of letters from April 21st, 1899, to July 10th, 1899, on page 458.

Q. Do you recollect the date of that contract? A. No, I cannot recall the date. In all probability it was made when I entered upon the prosecution of the case.

Q. When was that? A. Well in the Court of Claims I 556 entered upon the prosecution of this claim on May 14th, 1888.

I filed a power of attorney in the Court of Claims and my fee agreement must have been of the same date as the power of attorney.

Q. Have you any office papers and docket entries in the case of Richard Mayse? A. I had nothing to do with that case. Robert Howard had that claim.

Mr. Tucker offers in evidence all of the office files that the defendant has produced which have not heretofore been offered in evidence

by him, for the purpose of showing that the defendant had no correspondence with the claimants prior to the year 1886 when the decedent George B. Edmonds held contracts or fee agreements with such claimants or their representatives.

Q. Do I understand you to testify that where it appeared that other attorneys than yourself appeared as attorneys for the claimants before the Southern Claims Commission, that you declined to prosecute these claims in the Court of Claims after their rejection by the Southern Claims Commission, on the ground that the claim belonged to the original attorney? A. I will state this in regard to that matter. Where there is an attorney who had cases before the commissioners of claims, and is still engaged, and was at the time of the passage of the Bowman act of 1883, giving attention to his business here in Washington, I did not interfere in those cases except with the consent of such attorney, and in many instances we divided the fees. But in all cases where the local attorneys and attorneys here in Washington had gone out of business or had died I took the cases because of their being dead cases and represented by no one under agreement. Of course all such agreements and powers of attorney antedated the passage of the act of 1883.

Q. I hand you the Court of Claims papers in the case of Fauber, in which it appears that the firm of Chipman, Hosmer & Company of this city filed the original petition before the commission of claims, and also subsequently you and Mr. Edmonds entered your appearance as attorneys in the Court of Claims, and that thereafter you individually prosecuted that case. I ask you to explain why an exception was made in that case to your rule? A. There is no exception in that case. The firm of Chipman, Hosmer & Company did not exist at the time of the passage of the act of 1883, and as I am advised they were all dead at that time. Mr. Chipman may have been living but not giving attention to the business. The firm was out of existence.

Hearing is adjourned.

WEDNESDAY, May 29th, 1901—10.30 a. m.

Hearing pursuant to adjournment.

558 Present: Messrs. Tucker, Butterfield, Birney, Edwards and Moyers.

P. EDWIN DYE having first been duly sworn testifies as follows:

By Mr. BIRNEY:

Q. You have already testified in this case before the examiner, that you have had long experience in the prosecution of cases under the Bowman act? A. Yes sir.

Q. And have prosecuted a great many such cases? A. Yes sir.

Q. And in the course of such prosecution you have met the expenses &c.? A. Yes sir.

Q. Are you able to say from your experience with the cases under the Bowman act, what was a fair average of expense attending the prosecution of such cases?

Mr. Tucker objects and the objection is sustained.

Q. Have you, at the request of the defendants, examined the records of the Court of Claims in a number of cases indicated to you by him, for the purpose of obtaining the amount of expense that would fairly attend the prosecution of those particular cases? A. I have.

Q. Have you a memorandum of those cases? A. Yes sir.

Q. Please product it.

Witness produces a memorandum.

Q. What does this list show? A. It is a list of cases I examined in the Court of Claims that are pending while the labor and expense has been properly performed. That list of cases was furnished to me by Col. Moyers or under his direction. I took the list and examined the cases and caused to be written down for me at the time the number of the case and what I judged the expenses were in the case, what I would have expended in each case.

Q. This paper which I have, is headed "Cases pending in the Court of Claims" is in several columns. Will you explain the meaning of these several columns?

Mr. Tucker objects.

A. The right hand column represents the Congressional number of the case I examined; the column marked dollars indicates what I considered, on examination of the case, was the reasonable expenses in that case; the next column, the third from the right, represents the class and entries in the books of Col. Moyers, such as D, E. &c.

Q. His dockets you mean? A. Yes sir.

Q. How did you conduct your examination of these cases? A. I had a party to write under my directions a-d I examined in the Court of Claims to see what had been done.

Q. Did that examination, in your opinion as a practitioner before the Court of Claims, enable you to ascertain the fair expense attending the prosecution of these claims? A. I think so. I caused it to be reduced to writing.

560 Q. You had it reduced to writing? A. Yes sir.

Q. And does this paper indicate your opinion in that respect as to the cost of these cases? A. That was the intention of it I believe it is correct.

Mr. Birney offers the paper in evidence.

Mr. Tucker objects.
The auditor sustains the objection.
Mr. Birney notes an exception.
The paper is filed as an exhibit and not as evidence, and is marked Exhibit G. M. May 29/01-1.

— HEALY having been recalled by Mr. Birney testifies as follows,

By Mr. BIRNEY:

Q. You have already testified in this case before the examiner ?
A. Yes sir.

Q. You were in Col. Moyers' employ between what dates, can you recall ? A. I think from way back in 1873 or 1874 up to 1889 or 1890.

Q. You knew Mr. George B. Edmonds ? A. Yes sir.

Q. I show you now docket H of the dockets of Col. Moyers as heretofore identified in this cause, and ask you if you have looked over that, at the request of Col. Moyers, within the last day or two, and examined the handwriting in the margins and the entries ?

561 A. Yes sir, a couple of hours ago.

Q. In whose handwriting are the marginal entries of attorneys' names in that docket ? A. Mine, in fact almost all the writing with few exceptions is mine. The docket and the first entry in the book are mine and the entries on the margin.

Q. Please tell me if you recall the person who gave you the information, and the circumstances of that information, from which you entered the attorneys' names in the docket in those cases ? A. Well, of course in the case in which these cases apply to Mr. Edmonds it was Mr. Edmonds. In all cases which I entered upon the dockets he was present when the case was entered and given credit.

Q. What did he have before him at the time of giving you this information ? A. He had a list of cases that was the only record I had to go by.

Q. Did he have upon that list, do you recollect any case which under the practice of attorneys before the Court of Claims did not properly belong to him ? Q. That is a far reaching question.

Q. So far as you know ? A. He had—all other cases in which the names of other attorneys were on the blanks.

Q. Did you have any conversation with him on that subject ? A. Yes sir, lots of times.

Q. With what results so far as entering his name on the dockets was concerned ? Q. So far as that is concerned I think in 562 all cases which I thought were Moyers, Taylor or McAllister cases I always objected to entering on the dockets as Moyers & Edmonds cases.

Q. What are the initials "M. & E." on this claim ? (Referring to a claim in the docket.) A. Moyers and Edmonds, I think.

Q. At the time of these entries by you was Mr. George B. Edmonds present, the entries of names or initials of attorneys? A. Yes sir, he had his list there and was present.

Q. There are a number of cases entered here in which the name of George Taylor appears alone on the margin as attorney. What did Col. Moyers have to do with those cases? A. Mr. Taylor had turned his cases over to Col. Moyers, he was in the office every day.

Q. He was associated with Col. Moyers? A. Yes, sir.

Q. Did any other persons make docket entries up to the time you left the employ of Col. Moyers? A. Do you mean on these dockets?

Q. Yes. A. There are different handwritings there, but no difference in the docket entries, the entries of names on the margin are mine.

Q. Have you examined docket I in the same way? A. Yes, sir, that is my handwriting, all the entries are mine.

Q. Were those entries of names of attorneys made in the
563 same way you have mentioned as to docket H? A. Yes sir,
whenever Mr. Edmonds claimed a case I of course gave him credit.

Q. And that—was indicated by writing his name of initials on the margin? A. Yes, sir, right there at the top M. & E.

Q. I show you docket D. Are the first entries in that docket in your handwriting. I direct your attention to the first entries of names of the cases and the initials indicating the attorneys? A. Those are all in my handwriting.

Q. How is it with dockets E and L? A. I recognize my handwriting all through this docket, in the entries of the cases.

Q. And the names of the attorneys? A. Yes sir.

Q. Now in docket L I show you entries on pages 210 and 211, and ask you if the first entries, title of case, number of cases &c. are in your handwriting? A. No, sir.

At this point the hearing is adjourned to June 3d. at 10.30 a. m.

MONDAY, June 3d, 1901—10.30 a. m.

Hearing pursuant to adjournment.

Present: Mr. Tucker, Mr. Birney, Mr. Edwards and Col. Moyers.

WILLIAM W. JACKSON, having first been duly sworn, testifies as follows:

By Mr. BIRNEY:

Q. Please state your occupation? A. I am at present engaged in newspaper employ.

Q. What was your business in the early years after 1880?
564 A. I was a claim agent before the departments and Congress.

Q. Did you know the case of R. M. Johnson, administra-

tor of Samuel Herd? A. Yes sir, a claim agent against the Government.

Q. What connection had you with that case? A. Sent to me by T. B. Johnson, Hillsboro, Scott county Mississippi.

Q. Is that the same case for which an appropriation of \$2,105 was made under the appropriation act of 1899? A. I think so.

Q. Do you know in what way Col. Moyers became interested in that case? A. I turned the case over to him.

Q. For what purpose? A. For collection.

Q. You mean prosecution? A. Yes sir.

Q. Did you prosecute it in the Court of Claims? A. No sir, Col. Moyers did.

Q. About what time did you turn this case over to Col. Moyers? A. Between 1880 and 1882.

Q. Did you know Mr. George B. Edmonds? A. No sir.

Q. To your knowledge had George B. Edmonds any relations to that case as attorney? A. I know nothing of him.

Q. What relation to the estate of Heard did T. B. Johnson 565 bear? A. I don't know, unless as attorney, the case was put in his hands by the parties there and sent to me.

Cross-examination.

By Mr. TUCKER:

Q. Please state definitely what case you refer to in your direct examination? A. The name of the claimant is Samuel Heard, the date of the appropriation I don't recollect, nor the amount of it.

Q. Did you get any money out of it? A. No sir.

Q. Who got the money? A. I suppose Col. Moyers.

Q. How did he come to get it? A. I couldn't tell you, I suppose through an appropriation. I turned the case over to him and have had no connection with it since.

Q. What, if anything, did Mr. Johnson have to do with that case? A. He was the attorney for the party at Hillsboro.

Q. What is his name? A. T. B. Johnson.

Q. Did you have a contract with the claimants in this case for a fee. A. With the attorney?

Q. Did you have a contract? A. Yes, sir.

566 Q. What did you do with that contract? A. I turned it over to Col. Moyers and I suppose he obtained another contract after I turned it over.

JOHN C. SCOTT having first been duly sworn testifies as follows.

By Mr. BIRNEY:

Q. You have heretofore testified in this case before the examiner? A. Yes, sir.

Q. Do you know Mr. Healy, the witness partially examined? A. Very well.

Q. During his employment by Col. Moyers were you also employed by him? A. Yes sir.

Q. You knew Mr. George B. Edmonds? A. Yes sir.

Q. Are you familiar with the handwriting of Mr. Healy? A. Yes sir.

Q. I will ask you to look at the entries in docket D produced by Col. Moyers, and say in whose handwriting the entries prior to 1891 are made? A. The cases as they are docketed at the top of the page, name, place and number are in Tom Healy's handwriting; the other entries are in a different handwriting.

Q. Have you looked through the docket? A. Yes sir.

567 Q. That is all in Mr. Healy's handwriting? A. Yes sir.

Q. Were you ever present at the making of any entries in this book of the persons whose names appear here as attorneys by Mr. Healy when Mr. Edmonds was present? A. Yes sir.

Q. State how, when Mr. Edmonds was present, the entries were made? A. I was there, and Mr. Healy's and my desk adjoin.

Q. Do you mean side by side? A. Yes sir, Mr. Edmonds came in with a list and had Healy enter the cases from that list that Edmonds had, and I know that Healy went over them, whenever he would find one that Col. Moyers was interested in before, or got from some other attorney, that he always scratched that off and would not enter it.

Q. Was Col. Moyers present at the time when that was done? A. He was, at different times.

Q. You speak now of one occasion, was it more than once that this happened? A. He was there two or three different times.

Q. For this purpose? A. Yes sir, while that work was going on.

Q. Were you ever present when any objection was made to Mr. Edmonds by Mr. Moyers, concerning these entries of attorneys' names—of his name as attorney in these cases? A. In reference to two or three cases he objected to their being entered in Mr. Edmonds' name as it was already Col. Moyers' case.

568 Q. At the time of the making of these objections by Col. Moyers had the entry been made in the book? A. I think it had.

Q. Do you know of any particular case? A. I cannot recall any particular case now, but could find out by going through the books carefully.

— When you say the name was scratched off, do you mean it was scratched off the book or the Edmonds list? A. Both.

Q. Who scratched it off? A. I scratched one myself, and I know Healy did the same.

Q. Was that done in Mr. Edmonds' presence? A. Yes sir, all this work was done in Mr. Edmonds' presence.

569 Cross examination.

By Mr. TUCKER:

Q. You have stated that all this work was done in Mr. Edmonds' presence. Please state specifically what work you refer to? A. Entering these cases.

Q. In the different dockets? A. Yes, sir all of them in which the entries appear.

Q. Specify them? A. Dockets D, E, some in G and H.

Q. You mean to say that in making the entries in all the dockets you have just mentioned Mr. Edmonds was present? A. I do. That is I mean to say this, I don't mean to say all the entries in the dockets, I mean all the entries in the dockets of the cases in which Mr. Edmonds appears as attorney.

Q. How do you know that? A. He was there with the list.

Q. You personally recollect seeing Mr. Healy make all of the several hundred entries and personally recollect that when Mr. Healy made those entries Mr. Edmonds was present? A. I will not say that I saw Mr. Healy make each and every one but I do know that Mr. Healy entered all the cases, and know his handwriting, and knew Mr. Edmonds was there. Mr. Edmonds was present. I cannot recollect personally his making every entry as some may 570 have been made during my absence.

Q. Can you tell us which of the cases Mr. Healy made the entries of, when Mr. Edmonds was present? A. No, sir. I could not possibly do that, I could not give the specific names of the cases which Mr. Healy entered.

Q. Do you recollect in which cases Col. Moyers made his objection that Mr. Edmonds should not be entered as joint attorney with him? A. I cannot recollect just that case, the one I refer to as having been scratched off I can, I have recalled your attention to one other.

Q. My question relates to cases when Col. Moyers was present personally and objected to Mr. Edmonds' name being entered? A. No, I cannot recollect another case.

Q. When Mr. Edmonds was present? A. I cannot tell you that.

Q. During what years was Mr. Edmonds present in the office overhauling the entry of these cases? A. 1887, 1888, and 1889, several years.

Q. In 1887 how many cases would you say Mr. Edmonds' name was entered in these dockets? A. That I could not say unless I went over them and counted them.

Q. You say you struck off the entry of attorney's name in one case? A. I know of one case I struck it off.

Q. Can you recollect what case that is? A. I could not.

571 Q. How did you strike it off? A. With an ink eraser.

Q. Was Mr. Edmonds present? A. Yes, sir.

Q. Was Col. Moyers present? A. I could not say, it was done under his direction.

Q. You say there are several cases in which Mr. Healy struck off the attorney's names? A. I could not say.

Q. When those two or three entries were stricken off were Moyers and Edmonds present? A. Yes, sir, all that work was done under Col. Moyers' directions.

Q. How was that scratching off done by Mr. Healy? A. I could not say whether with an ink eraser or how, I know it was done by Col. Moyers' direction.

Q. What is your business? A. At present I am a stenographer.

Q. For whom? A. For myself.

Q. Where is your office? A. 604 F street, I have desk room there.

Q. When you testified in this case before you were a letter carrier were you not? A. Yes, sir.

Q. Since you testified before in this case have you received any sums of money from Col. Moyers? A. Yes sir, for some 572 work I have done for him.

Q. You have been employed by him since then? A. Yes sir, in several matters.

Q. Will you turn to those dockets, in the case of Susan Merrill? A. Yes, sir, if you can get the index.

Q. Are you familiar with Mr. George B. Edmonds' handwriting? A. Yes sir.

Q. You have seen him write? A. Yes, sir.

Q. Please look at the paper or letter, and tell me if it is in his handwriting and whether that endorsement on the bottom of it in pencil is in Col. Moyers' handwriting?

(Hands witness letter.)

A. Yes, sir, that is Mr. Edmonds' handwriting and the endorsement is in Col. Moyers' handwriting.

The letter is offered for identification and marked G. M. June 3/01.

Mr. Birney asks that the testimony of Mr. Jackson be stricken from the record of this hearing.

Mr. Tucker objects to striking out the testimony.

Re-direct-examination.

By Mr. BIRNEY:

Q. You are familiar with the case of Susan Heard to which 573 Mr. Jackson testified? A. I am familiar with the docket entries.

Q. I show you the docket entries on page 45 of docket D. Under what name and number was that case prosecuted before the Court of Claims? A. It was originally entered under the name of Samuel Heard, No. 1767 Congressional and the side note there shows that it was entered afterwards.

Q. Whose names appear upon the docket as attorneys? A. T. B. Johnson and Condit Jackson.

Q. Does the name of R. M. or Richard Johnson appear in any way in that case? A. No, sir.

By Mr. TUCKER:

Q. As I understand you, Mr. Edmonds in 1887, 1888 and 1889, was in the habit of supervising the entries by Mr. Healy in these dockets you have referred to? A. In all of those entries Mr. Edmonds was present with his list.

Q. Mr. Edmonds had the list in his hands and supervised Mr. Healy when he made these entries in 1887, 1888 and 1889? A. I don't know whether you would call it supervising, he was there when they were entered.

Q. Do you know why Mr. Edmonds was there in order to see these entries made in the dockets? A. I do not know what his reasons were except he wanted to come and be there when the entries were made, I never heard of anything outside of that.

Q. Col. Moyers and Mr. Edmonds would be there when
574 Mr. Healy was making the entries and on some occasions Col. Moyers would protest that Mr. Edmonds was not a co-attorney in the case? A. Yes, sir, that it did not belong to Mr. Edmonds because he had had it long before.

Q. You have testified in this case before? A. Yes, sir.

Q. I read from what purports to be a transcript of your testimony given before the examiner in the court bill on February 15th, 1900, and ask you if you so testified.

"Q. You say you saw Mr. George B. Edmonds in Col. Moyers' office almost daily?" "A. Yes, sir."

"Q. When was that, between what dates?" "A. March, 1889 to 1892, about the summer of 1892."

—. Did you so testify? A. I did.

Q. What do you hold in your hand? A. A copy of my testimony from which you are reading.

Q. Did you testify on that occasion as follows:

"Q. Do you know what brought Mr. Edmonds to Col. Moyers' office?" "A. Yes, sir."

"Q. What was it?" "A. To get money."

"Q. And for no other purpose?" "A. No sir."

575 "Q. Don't you know as a matter of fact that Col. Moyers and Mr. Edmonds were engaged together in the prosecution of claims before the Government?" "A. Together?"

"Q. Yes." "A. No, sir, Mr. Edmonds disposed of his claims to Col. Moyers."

"Q. Who drew up this agreement of 1888, you?" "A. Yes, sir, I am satisfied that I did."

"Q. Don't you know that from 1888 until 1892 Col. Moyers and Mr. Edmonds were engaged in the prosecution of claims together?" "A. No, sir. Disposition had been made of the claims by Mr. Ed-

monds to Col. Moyers in 1888, and Mr. Edmonds would draw money from the Colonel under that disposition."

"Q. You knew they were partners in the prosecution of those claims between 1888 and 1892?" "A. Not in partnership to my knowledge."

—. Did you so testify? A. I did.

Q. I show you the entries on page 274 of docket C, in the case of Susan Merrill of Lee county, Mississippi and ask you who made the entries, if you know, there shown? A. The entry of the case, name, county and number is in Mr. Healy's handwriting, the entry of March 31st, 1887, the next one April 19th, 1887—well I will say, with two or three exceptions the most of the case is entered in Healy's handwriting.

Mr. Tucker offers in evidence the page of the docket just 576 referred to, relating to the case of Susan Merrill, and which docket was produced by the defendant.

Mr. Tucker also offers in evidence the paper heretofore produced and marked for identification as "G. M. June 3/01," being a letter written by Mr. George B. Edmonds and containing the endorsement of the defendant, Gilbert Moyers.

By Mr. BIRNEY:

Q. Did you have any personal knowledge of the attorneys who were engaged in the prosecution of the Susan Merrill case to which your attention has been called? A. I know Mr. Francis had another case, I could not say it was the Susan Merrill case.

Q. Who was Mr. Francis? A. An attorney who came into Col. Moyers' office and had several cases there, his name will be found on the marginal notes.

Q. Are you able to say whether the Merrill case in which Mr. Francis was interested was the same? A. No, sir.

By Mr. TUCKER:

Q. Where the name of the attorney does not appear in the upper left hand corner of the page on which entries of cases are made in those dockets, is the case an individual one of Col. Moyers? A. Yes, sir.

Q. Is that the invariable rule? A. Yes, sir, where another attorney had nothing to do with it there is no name, but where another attorney was associated in the case his name appears on the margin.

577 Q. Then if Mr. Edmonds had anything to do with the Moyers cases his name would appear on the margin of the docket entries? A. Yes, sir.

Q. So then, Mr. Francis would not appear unless he were interested in the case? A. His name should appear there.

The hearing is then adjourned to Tuesday, June 4th, 1901, at 10.30 o'clock a. m.

WEDNESDAY, June 5, 1901—10.30 a. m.

Hearing pursuant to adjournment.

Present: Messrs. Tucker, Birney, Edwards, and Colonel Moyers.

THOMAS HEALY, recalled for cross-examination.

By Mr. TUCKER:

Q. Do I understand that you have examined all of the entries in these various dockets of Colonel Moyers and that the first entries were in your handwriting? A. I have not examined them all.

Q. Tell us which ones you have examined. A. You mean take the book?

Q. Yes; take the dockets, which are the dockets you have examined. A. I have not gone through all of them at all.

Q. What do you mean, to testify that the ones only that 578 you have looked at are in your handwriting? A. Yes, sir.

Q. How many are in your handwriting? A. I could not say until I look. That is mine. (Indicating an entry in one of the dockets.)

Q. State as nearly as you can how many of the cases in these various dockets you have examined and that are in your handwriting? A. I could not state that, only the ones I have examined.

Q. What have you done? A. I have done nothing only what I did last week.

Q. When did you leave Colonel Moyers' employ? A. I think it was some time in 1892.

Q. When did you enter his employ? A. I think some time in 1873 or 1874 first, when he was quartermaster.

Q. When did you first make Mr. Edmonds' acquaintance? A. Somewhere about '86 or '87.

Q. When did you first begin to enter the names of Moyers and Edmonds on these dockets? A. I think the docket will show, I cannot state definitely; whenever I would have a case from the court I would give credit to Edmonds or whosever case it was.

Q. Well, the entry in "M. & E." or in "Moyers & Edmonds" does not bear date in these dockets. What I want to know is when you began making these entries of "M. & E." or "Moyers & Edmonds?" A. I would make, that you see there (pointing to initials "M. & E." on an entry in docket) and either put in "M. & E." or whosever case it was.

579 Q. When did you begin these? A. Whenever he would bring cases to the office.

Q. When was that? A. Probably '86 or '87 or '88.

Q. Would Colonel Moyers be present when you were making these entries, that you have spoken of in the docket? A. Not always.

Q. Was he ever present? A. He would be in his room.

Q. Did any dispute ever arise as to whose case it was, whether his or Mr. Edmonds? A. I do not know about; there might.

Q. When Mr. Edmonds said a case was his did you always give credit? A. Yes, sir.

Q. You took his word? A. Yes, he always had a list or memorandum.

Q. What sort of a list? A. A sheet of legal cap with names and numbers. He would come down and ask me if I had a certain case on the books and I would look it up and if I did not have it I would enter the case and put the initials "M. & E." on the book.

Q. And unless he mentioned it to you you would not enter his name on the docket in a given case? A. No.

Q. He was not present when you made the entries in all these cases? A. In some he was.

580 Q. I mean all. A. When I had entered the names he would come in and ask me if it was on the docket.

Q. I mean was he present when you were making these entries in the dockets? A. He was there every day.

Q. During what years? A. From '86 or '87 up to probably '90.

Q. Now, I call your attention to docket D, page 135, and to the entries in the case of Fitzhugh and ask you who made the first entries in that case, and who wrote the name of Edmonds in the left-hand margin of the page? A. A clerk by the name of Brandenburg.

Q. So you know nothing whatever about the attorneyship in that case? A. No, sir.

Q. Is the same true of the entries in the Goodlow case on page 134 of the same docket? A. Yes, sir.

Q. And the case of Roane on page 138 of the same docket? A. The same.

Q. And on page 169, the Clarke case on the same docket? A. That looks like the same writing.

Q. So that in all the cases I have mentioned you did not make the entry of the attorney's name on the margin? A. It does not show there.

Q. That was — my question? A. No, sir.

581 Q. Please look at docket G and examine the entries in the cases in that docket and state whether the title of the several cases is in your handwriting? A. Yes, sir.

Q. How do you account for the fact that in that docket there are the names of no Washington associated counsel endorsed in the margin, if it be a fact? A. Well, I imagine that is in this way, that cases, or powers of attorney, would come direct from the claimant where we would write to them.

Q. Now, I call your attention to page 238 of docket K, containing entries in the case of William T. Fauber, and ask you whether the caption of that case and the entries and the attorneys' names are in your handwriting? A. Yes sir, that entry is.

Q. Are you acquainted with Mr. Edmonds' handwriting? A. I have seen a good deal of it.

Q. Have you ever seen him write? A. Yes sir; in the office.

Q. Please look at the paper I hand you and state whether the handwriting in the body of that paper is that of Mr. Edmonds?

(Paper handed to witness is paper marked for identification G. M. June 6, 1901.)

A. I am not expert enough to say.

Q. I ask your attention to page 274 of docket C, containing names in the case of Susan Merrill, and ask you whether you wrote the caption of that case and made the first entries? A. Yes, sir.

582 Q. Why did you not put Mr. Edmonds as associate attorney in that case? A. Because Mr. Francis was attorney in that case.

Q. How do you know that? A. I knew him well; he was in the office every day about it.

Q. Mr. Edmonds never asked you to put his name up in the corner of that page? A. No, sir, because I would not have done it.

Q. Then I understand you that you exercised the right of determining whether Mr. Edmonds was associated with Colonel Moyers in these cases, and if he was not associated with Colonel Moyers you refused to put his name on the docket? A. I had no authority to do that; I was simply a clerk.

Re-direct-examination.

By Mr. BIRNEY:

Q. Among the docket entries in this case of Susan Merrill appears an entry under date of April 14, 1887, the second and third entry after the caption, it reads "Petition and P. A. and F. A. to Philo, Mississippi;" what does that mean? A. That "P. A." is power of attorney, and the "F. A." means fee agreement, and it means that the petition was sent to the claimant, as also the fee agreement.

Q. By whom? A. By Mr. Francis.

583 By Mr. TUCKER:

Q. I hand you a fee agreement between Susan Merrill and George B. Edmonds dated April 20, 1886, and ask you to look at the handwriting on the first two lines of that contract and state whose handwriting that is. A. I could not say.

Mr. Tucker offers the paper for identification and it is marked G. M., June 6th, '01, 1.

Q. How many Washington attorneys would you say that Col. Moyers was associated with in the prosecution of this class of claims? A. I can give you some names—there was George Taylor, Mr. McAlister and D. G. Glassie, B. D. Hine now dead, and also Charles C. Tucker, your father.

Q. Do you recollect anybody else? A. I have forgotten.

Q. How about J. B. Semptor? A. He was a Tennessee man.

Q. How about McPherson? A. Yes, he was another one.

Q. How about General Denver? A. Yes, Arthur St. Clair Denver, I think the firm was Peck & Denver. They are all dead.

Q. Do you recollect any other names? A. Justin I. McCarthy; I do not recollect whether he was connected with these Southern claims or not.

By Mr. BIRNEY:

Q. I now show you the entries in the case of Henry T. Cate, Nos. 4931 and 6966 Congressional, page 6 of docket F, and ask you who entered the caption of that? A. I did.

584 Q. Is the name of any associate counsel entered there? A. No, sir.

Q. I show you now the docket entries on page 84 of docket F in the case of James C. Tappan, administrator of Thomas Sutton; in whose handwriting are the entries of the caption and the first four entries below it? A. Mine.

Q. Does it show from whom the case was received? A. Received from Mrs. J. A. Sutton.

Q. Is there anything to indicate associate counsel? A. Nothing, that I can see there; I do not remember.

Q. I show you now the entries in the case of Richard Butler, Chatham county, Georgia, docket H, page 59, and ask you who made the entries in this case? A. That is my handwriting.

Q. Any associate counsel there? A. Yes sir, Moyers and Edmonds.

Q. Is that in your handwriting? A. Yes, sir.

Q. It indicates that Moyers & Edmonds were associated in that case? A. Yes, sir.

Q. Now, in the case of John P. Davidson, No. 6809 Congressional, page 20, docket H; in whose handwriting is that? A. That is my handwriting.

Q. What appears upon the margin as to counsel? A. Moyers & Edmonds.

585 Q. Is it in your handwriting? A. Yes, sir.

Q. Is that entry obliterated or marked in any way? A. It appears to be rubbed over in pencil.

Q. I show you the entries in the case of Christain Uble, docket E, page 224, and ask you in whose handwriting are the first entries? A. Mine.

Q. Is the entry on the margin in your handwriting? A. Yes, sir; it shows the name of Moyers & Edmonds attorney.

Q. Is there any entry upon that book in Colonel Moyers' handwriting? A. Yes, sir.

Q. What is it? A. "Settled. William P. Clark, attorney."

Mr. Tucker objects to these entries generally upon the ground that.

they are declarations with nothing to show that they were made at the time they purport to have been made, and they are not books of account such as would be admissible in evidence ordinarily. So far as the entries are admissions upon the part of the defendants there is no objection.

Q. Who made the entries in the case of William R. Welborn, docket H, page 187? A. That is my writing.

Q. And the entry on the margin, "M. & E." is your handwriting?

A. Yes, sir.

586 Q. Who made the caption entries in the case of Caspar Gall, docket H, page 38? A. Mine.

Q. Is the marginal entry, "M. & E." in your handwriting? A. Yes, sir.

Q. Who made the entries in the case of John Ehs, docket C, page 2? A. Mine.

Q. Do the names of any associate counsel appear there? A. No, sir.

Q. Now, docket D, page 45, who made the caption in the case of Heard vs. United States, in which R. M. Johnson appears afterwards to have been entered as administrator? A. That is not my handwriting; no, sir.

Q. Do you know whose it is? A. It looks very much like Scott's; but I am not certain.

Q. Now docket G, page 93, in whose handwriting are the entries in the case of Anna Hunt, administratrix of G. F. Hunt? A. That is my handwriting?

Q. Does the name of any associate counsel appear in that case? A. No, sir.

Q. Now docket K, page 167, who made the caption entries in the case of Hattie E. Black now Ladd? A. That is my writing.

587 Q. Does the name of any associate counsel appear there? A. No sir.

Q. Who made the caption entries in the case of James Hard-ing, administrator *d. b. n.*, docket H, page 290. A. Mine.

Q. Does the name of any associate counsel appear there? A. No, sir.

Q. Who made the caption entries in the case of William Wil-liams, administrator of Roderick Williams, docket E, page 136? A. Mine.

Q. Does the name of any associate counsel appear there? A. It does not appear.

Q. Who made the caption entries in the case of Nathaniel Thornton, docket H, page 116? A. Mine.

Q. The initials "M. & E." in the margin are in your hand-writing? A. Yes sir.

Q. In whose handwriting are the caption entries in the case of Samuel Fitzhugh, docket D, page 135. A. Not mine; that looks like Brandenburg's handwriting.

Q. Is the name of associate counsel entered? A. Yes sir; in the same handwriting.

Q. Whose name is it? A. Mr. Edmonds.

588 Q. Now, docket I, page 247, who made the caption entries in the case of John A. Hornbaker? A. That is my writing.

Q. Is there the name of any associate counsel entered there? A. I do not see any.

By Mr. TUCKER:

Q. In the case of Cate, docket F, page 86, the first entry is "July 10, 1888, referred to Court of Claims," does that mean that that was the first step taken by Colonel Moyers' office in that case? A. No, sir.

Q. What does it mean? A. It means the date it was entered at the Court of Claims. The first step was generally before Congress; that is the date the Committee on War Claims referred it to the court.

Q. In the case of Tappan, docket F, page 84, the first marginal entry is Mrs. J. Sutton, Scott county, Arkansas; she was the person with whom correspondence was had? A. Yes, sir.

Q. Will you read the entries in the Uble case in docket E, Charles Uble, page 24, docket E. A. (Witness reads pencil entry.)

By Mr. BIRNEY:

Q. In whose handwriting are the caption entries in the case of Samuel Bagnall, administrator &c. of Braboy, docket H, page 257?

A. My handwriting.

589 Q. Is there any entry of associate counsel? A. Not that I see.

By Mr. TUCKER:

Q. In these cases where Mr. Edmonds does not appear in the margin I generally understand you as testifying that you recollect that when you made the entries in those cases Mr. Edmonds was present? A. The marginal entries you mean?

Q. When you made any entries? A. He was present when I made the marginal entries.

Q. That is not the question. When you made the entries in the case where there is no marginal entry of attorneys or where Mr. Edmonds' name does not appear as attorney can you testify of your own recollection that Mr. Edmonds was present? A. Only in cases in which I made an entry of "M. & E."

Q. In the other cases you do not know whether Mr. Edmonds was present or not? A. I made those entries from the Court of Claims.

Q. That is not my question. A. He might have been; I do not know.

Q. What do you mean by saying you made these entries from the Court of Claims? A. The clerk of the court would send a list.

down there of numbers and no names and I would go up with the list of the cases with the numbers and get the names; then I would come back to the office and go over our book and enter the cases in the docket as at the Court of Claims. That is all I could do
590 then, and when Mr. Edmonds came in he usually had a list and would ask me if a certain case was down there and I would look on my Congressional book and see where it was referred, and then look on my office book.

Q. Take, for illustration, this case of Samuel Bagnall, the first entry? A. Yes, sir.

Q. Do you know whether Mr. Edmonds was in the office when you made the entry? A. He was if I gave him any credit.

Q. As a matter of fact, did you not get the information from which you had made the entries in these dockets largely from the dockets and entries in the Court of Claims? A. I had to get the names.

Q. It is simply a copy of the entries in the Court of Claims? A. The object was to get from the court number of the case and the name.

Q. Was it not your object to make the entries in the cases correspond with the entries in the dockets of the Court of Claims? A. No, sir; what they did up there had nothing to do with what transpired in our office.

By Mr. BIRNEY:

Q. Those entries were made in the regular course of the business of your office? A. Yes, sir.

Mr. Tucker offers in evidence the court papers just produced in the case of Susan Merrill, 1681 Congressional.

591 GILBERT MOYERS, recalled.

By Mr. BIRNEY:

Q. I show you the caption entries in the case of John P. Davidson, docket H, page 20, in which the attorneys' names Moyers & Edmonds on the margin appear to be scratched through. Tell us what you know of it? A. I made that erasure for the reason that it was not a case received from Mr. Edmonds and it was entered by Healey by mistake under the direction of Mr. Edmonds, as I erased in several other cases as you will find in the dockets.

Q. When did you do that? A. Some time since; I cannot give the exact date.

Mr. Tucker moves to strike out all testimony relating to these docket entries upon the ground that defendant offers them first, to show by marginal entries that Mr. Edmonds' name failed to appear as attorney on the dockets, and then, when the name does appear, he undertakes to strike off the name of Edmonds from his dockets

and to explain that his clerk made a mistake in entering them; and also on the ground that the entries not being entries in books of account are inadmissible except where they show determinations.

Hearing adjourned until Monday, June 10, 1901, 10.30 a. m.

FRIDAY, *June 14, 1901—2 p. m.*

Hearing pursuant to adjournment.

Present: Messrs. Tucker, Birney and Col. Moyers.

HORACE S. CUMMINGS, recalled.

By Mr. TUCKER:

Q. You have heretofore testified, I believe, that you had in your custody at the time of Mr. Edmonds' death and have had since his papers and effects? A. I have.

Q. I hand you three papers, one of which has heretofore been identified and marked "G. M. June 3, 1901" purporting to be a letter from Mr. Edmonds to Gilbert Moyers, and containing an endorsement in pencil signed "G. M.;" the other two of which purport respectively, to be a fee agreement between Susan S. Merrill and George B. Edmonds, dated April 20, 1886, and a paper headed "Court of Claims of the U. S. A., Susan A. Merrill vs. The United States, Cong. case No. 1681," unsigned, and ask whether you have seen those three papers before?

(Handing witness papers.)

A. I have seen these three papers.

Q. Were they in your custody? A. They have been in my custody ever since the death of George B. Edmonds; I found these among other papers in his trunk.

Q. They are in the handwriting of George B. Edmonds, the two letters? A. I believe one is a letter and the other is some 593 sort of an agreement.

Q. I mean the two written out; I do not mean the blank form? A. Yes, sir.

Q. Are you familiar with George B. Edmonds' handwriting? A. Perfectly.

Q. Had you ever seen him write in his lifetime? A. Many times.

Q. Those two papers you have just referred to are in his handwriting? A. They are.

Q. In whose handwriting is the body of that contract, if you know? A. George B. Edmonds; the body of the printed contract.

By Mr. BIRNEY:

Q. Which paper is that you refer to? A. The contract.

By Mr. TUCKER:

Q. Referring to the contract, in whose handwriting is the body of the printed contract? A. The power of attorney I should judge to

be in George B. Edmonds' handwriting, but I am not absolutely positive about that. That is this one (handing paper to Mr. Birney).

By Mr. BIRNEY:

Q. These three papers all purport to relate to the case of Susan S. Merrill? A. They do.

594 Mr. TUCKER: I offer these three papers in evidence.

Mr. BIRNEY: I object to the fee agreement so called and to the unsigned paper offered as the third of the three papers, headed "Court of Claims, U. S. A.," as incompetent and not proven.

Mr. TUCKER: I think these papers are admissible as having been found in the effects of the deceased by his administrator.

By Mr. TUCKER:

Q. Mr. Cummings, look at the memorandum on the back of this letter (H. A. C. No. 1) which reads "Rec'd this back from clerk in Moyers' office Saturday, July 18, 1891," and state in whose handwriting that is? (Handing witness paper.) A. George B. Edmonds.

Mr. TUCKER: I offer these three papers in evidence.

Mr. BIRNEY: I object to the last named endorsement for any purpose.

Mr. TUCKER: You do not object to the will?

Mr. BIRNEY: I do not object to the will.

By Mr. TUCKER:

Q. Mr. Cummings, please state, if you please, whether these three papers just referred to were found by you amongst Mr. Edmonds' papers together or separately.

Mr. Birney objects to the question as leading.

Objection overruled.

595 A. I found these papers, the three of them, folded so, (indicating the papers inclosed in each other); in that shape.

Mr. BIRNEY: I object.

The objection is overruled.

Q. I hand you, Mr. Cummings, a paper purporting to be a letter dated Huntley, September 29, '96, addressed to Mr. G. B. Edmonds and signed Anna Hunt, and ask you whether you have ever seen that paper before and whether it was in your custody, and if so how came you in possession of it? A. I found this letter among the letters of Mr. George B. Edmonds in the trunk which contained all his papers.

Mr. TUCKER: I offer this paper in evidence.

Mr. BIRNEY: I object to it as an absolutely unproved paper.

Mr. TUCKER: I offer this paper in evidence to show that such a paper was in the possession of George B. Edmonds at the time of his death; that is the sole purpose of the offer.

Mr. BIRNEY: I object to that offer.

The objection is overruled.

Said paper filed and marked "H. A. C. No. 4."

By Mr. TUCKER:

Q. Mr. Cummings, I direct your attention to a large number of jackets on the table before you and ask you whether you ever saw those jackets before, and if so under what circumstances? A. I found those papers in the condition they are now, with the additional ones which have been introduced in this case, in the 596 trunk of Mr. George B. Edmonds together with the schedule, and the books of account that he kept. I took each jacket and compared the contents with the schedule. I also compared them with the book of entry or accounts where he kept a description of the claims.

Mr. BIRNEY: I object to that as not responsive to the question.

The AUDITOR: That is not responsive to the question.

Mr. TUCKER: I would have asked another question to have brought that out; it was only simply to save time.

Mr. TUCKER: I offer the papers just referred to by the witness in evidence (being a large number of jackets).

Mr. BIRNEY: I object to them as not proven sufficiently to be offered in evidence for any purpose.

By Mr. TUCKER:

Q. I might ask the additional question, in whose handwriting are the endorsements on those jackets? A. George B. Edmonds'.

The AUDITOR: The papers can be filed and their value determined later.

By Mr. TUCKER:

Q. I have before me the Court of Claims files in the case of William T. Fauber, I take therefrom and hand to you, what purports to be a petition addressed to the Senate and House of Representatives by William T. Fauber asking that his claim against the

United States be referred to the Court of Claims, which petition appears by file mark to have been filed June 29, '86. I

ask you to look at the written matter on the face of that petition other than the signature and state in whose handwriting that matter is? (Handing witness paper.) A. That is in the handwriting of George B. Edmonds.

Mr. TUCKER: It is agreed by and between counsel for the respective parties that a copy of the paper just offered in evidence shall be filed and used in lieu of the original.

Said paper previously marked "G. M. June 6, '01" for identification.

Q. I have before me the Court of Claims files in the case of Henry

T. Cate against The United States and take therefrom the petition of the claimant Henry T. Cate, filed February 13, 1888, in the Court of Claims, and ask you to examine the face of that petition, and to state in whose handwriting, if you know, the written matter is? (Handing witness paper.) That is, with the exception of the signature of the claimant. A. It is in the handwriting of George B. Edmonds.

Mr. TUCKER: I offer in evidence the paper just identified by the witness, with the same stipulation.

Marked "H. T. C. No. 1."

By Mr. TUCKER:

Q. Mr. Cummings, you knew George B. Edmonds in his lifetime, did you not? A. I did, very well, indeed.

Q. Please state whether you ever saw in his possession a
598 printed book containing a list of claims against the United States that had been rejected by the Southern Claims Commission? A. Well, I do not know what you mean.

Q. Just answer the question the best you can. A. George B. Edmonds had four volumes of the reports of the Southern Claims Commission, three volumes of which took case by case, giving a short description of the case and the action of the Southern Claims Commission on it. The fourth volume seems to have been published later and seems to have been a résumé or condensation of all these cases in tabular form.

Q. Were they Government publications? A. They were Government publications, and as I understand of a very limited number.

Q. Do you know where Mr. Edmonds got those books from? A. My impression is that he got them—

Mr. BIRNEY: I object to the impression of the witness.

By Mr. TUCKER:

Q. Just state what you know of your own knowledge. A. George B. Edmonds was born in the same town where Mr. Ferris lived—

Q. State who Ferris was. A. He was the Second Auditor of the Treasury and had been a commissioner of the Southern Claims Commission, and I know that Edmonds went over and consulted with Ferris about claim business.

By Mr. BIRNEY:

599 Q. Were you present? A. I was not.

Mr. BIRNEY: I object to the witness stating any conversation that took place between Mr. Ferris and Mr. Edmonds.

By Mr. TUCKER:

Q. Mr. Cummings, the question is whether you know where Mr. Edmonds got these Government publications you refer to? A. I

do not know, but I believe from Mr. Ferris; I know he had them, that is all.

Q. Please state where he had them when you saw them in his possession? A. Well, in his office.

Q. Where was his office? A. In the Corcoran building.

Q. Was that office connected in any way with Colonel Gilbert Moyers that you know of, that is, in the same building? A. Oh, no.

Cross-examination.

By Mr. BIRNEY:

Q. After the death of Mr. Edmonds you took possession of all his books and papers you could find? A. I did.

Q. Did you find any such books as those four volumes of reports you have been testifying to? A. No, sir.

Q. Do you know what became of them? A. I do not know, but I presume they were sold; he was hard up and they brought a pretty good price.

600 Q. Have you any knowledge on the subject? A. I have no knowledge whatever.

Q. When did you last see these books, and what directed your attention to them? A. It is impossible for me to say when I last saw them, because when I last saw them they simply passed out of my mind as I did not suppose at that time that they would ever have any connection or anything to do with the case.

Q. What directed your attention to them? A. Because he said that he had a talk with Ferris and I knew Ferris very well and he said that he wanted to help George along all he could.

Q. When was it that Mr. Edmonds had an office in the Corcoran building? A. I could not tell the year.

Q. Can you give the year? A. No; I could not; I should say it was somewhere along about 1885, or '6 or '7.

Q. You cannot come any nearer the date than that? A. No, I cannot.

Q. How long did he maintain an office there? A. I could not tell you.

Q. How early did he begin his tenancy of the office? A. I do not know, but I think some time in '85; but I would not be sure, it might have been '86; I simply know that he had an office in the Corcoran building at that time.

Q. How long did he occupy it? A. I do not know.

601 Q. How many times did you visit his office? A. Probably three or four times.

Q. Did you at that time have any interest in these cases? A. Not a particle, nor in any case in which Edmonds was interested.

Q. I take now from the files of the Court of Claims and show you a paper headed "Petition to the Senate and House of Representatives of the United States of America in Congress assembled," purporting to be signed by Henry T. Cate, and ask you if you know the

handwriting of that paper? A. That is not Mr. Edmonds' handwriting.

Q. Do you know the writing? A. I do not know whose writing it is; no, I do not.

Q. What is the date of that paper? A. There is no date here.

Q. What is the file date? A. February 4, 1888.

Q. In what place? A. It is marked "Referred to the War Claims Committee."

Q. That is the official endorsement? A. That is the stamped endorsement.

Mr. BIRNEY: I offer this paper in evidence.

Filed and marked "G. M. No. 1."

602 Q. You are familiar with the course of procedure in these cases before Congress? A. I cannot say that I am; I know the general way it is done; but I am not entirely familiar with it.

Q. I show you now printed form of petition to the Committee on War Claims of the House of Representatives, dated July 10, 1888, signed by the clerk of the committee, and ask you if you do not know that that is the usual form of reference to the Court of Claims in cases of this kind? A. That is the usual kind.

Q. What is the date? A. July 10, 1888.

Mr. BIRNEY: I offer this in evidence. (Previously marked for identification "H. T. C. No. 1.") I also offer in evidence a paper found in the Court of Claims files entitled a power of attorney, being a power of attorney from Henry T. Cate to Gilbert Moyers, dated Jan. 27, 1888, and acknowledged by Henry T. Cate, before a notary public in the State of Arkansas. (Marked G. M. No. 3.)

Hearing adjourned until Monday, June 17, 1901; 1.30 p. m.

WEDNESDAY, June 19, 1901—1.30 p. m.

Hearing pursuant to adjournment.

Present: Messrs. Tucker, Birney, Edwards and Moyers.

CLARENCE CORSON having first been duly sworn testifies as follows:

By Mr. TUCKER:

603 Q. Please state your residence and occupation? A. Cashier of the Columbia National Bank of Washington, D. C.

Q. Have you held any other positions in that bank? A. Yes, sir, paying teller, receiving teller, and note teller.

Q. How long have you been engaged in the banking business in those capacities? A. About twenty five years.

Q. What, if any experience have you had in giving your opinion as to the genuineness of signatures and other handwritings, or pass-

ing upon the genuineness of signatures and other handwriting? A. In the position of teller it is necessary to pass daily upon a great many signatures.

Q. Have you ever testified as an expert in handwriting? A. I have.

Q. I hand you two papers found among the effects of the late George B. Edmonds, in a jacket marked Sarah S. Sutton, one of which purports to be a fee contract signed by Henry T. Cate, dated February 25th, 1886; the other purporting to be a power of attorney dated the same day and signed by Henry T. Cate; and also a paper purporting to be a petition found among the files of the Court of Claims in the case of Henry T. Cate against The United States and dated March 11th, 1892; also a jacket containing the testimony of Henry T. Cate and others found among the same files, directing your attention particularly to the signature of Henry T. Cate to his testimony, and ask you to compare the signatures on the 604 first two papers referred to with the signatures on the other papers, and state whether or not in your opinion the signatures on all the papers were written by the same person?

Mr. Birney objects on the ground that the witness has not sufficiently qualified himself to testify as an expert, and on the further ground that some of the papers upon which the witness is asked to testify are not in the case and not proper. Mr. Tucker adds to his question the following:—Assuming that the genuineness of the signature on the first two papers is disputed, and the genuineness of the signatures on the other papers is undisputed, please state whether in your opinion the signatures on the first papers named were written by the same person who wrote the signatures on the other papers referred to in this question?

Mr. Birney objects.

Mr. Birney admits the genuineness of the papers other than the first two shown the witness.

Q. I hand you a paper taken from Mr. Edmonds' office papers in the case of Anna Hunt, purporting to be a fee agreement dated June 1st, 1886, signed by Anna Hunt, and also a letter dated November 28th, 1890, addressed to Mr. Moyers and purporting to be signed by Anna Hunt, and ask you to examine those two papers and assuming that the first one contains the disputed signature of Anna Hunt, and the second one the undisputed signature of Anna Hunt, and state whether in your opinion the signatures in both papers were made by Anna Hunt?

605 Mr. Birney objects.

The auditor states that he would like to hear counsel on this question.

The witness is excused for the present and the hearing is adjourned to Wednesday, June 26th, 1901, at 3 o'clock p. m.

WEDNESDAY, July 3, 1901—1 p. m.

Hearing pursuant to adjournment.

Present: Mr. Tucker for the complainant, Mr. Birney for the defendant.

HORACE S. CUMMINGS, recalled.

By Mr. TUCKER:

Q. Mr. Cummings I hand you a paper taken from the files of the Court of Claims in the case of Richard Butler against The United States purporting to be a petition addressed to the Senate and House of Representatives by Roland Butler, undated but bearing the file marks "June 15, 1886, referred to the Committee on War Claims." "February 14, 1888, referred to the Committee on —," and, "Filed, Feb. 16, 1889." This petition is on a blank form. I ask you to examine the handwriting of that petition, with the exception of the signatures, and state whose handwriting that is, if you know?

(Handing witness paper.)

A. George B. Edmonds.

Q. I hand you a paper taken from the Court of Claims files in the case of John R. Hornbaker against The United States, which 606 paper is on a printed form and purports to be a petition addressed to Congress by John R. Hornbaker, bearing the file marks, "May 5, 1886, referred to the Committee on War Claims," and "Jan. 25, 1888, referred to the Committee on —," and "May 22, 1890, referred to the Committee on —," and also, "Filed Aug. 17, 1890." I ask you to examine the handwriting of that petition, save the signature, and state whose handwriting it is? A. George B. Edmonds.

CLARENCE CORSON, re-called.

By Mr. TUCKER:

Q. I hand you two papers found among the effects of the late George B. Edmonds, in a jacket marked Henry T. Cate, one of which purports to be a fee contract signed by Henry T. Cate, dated February 25, 1886, the other purporting to be a power of attorney dated the same day and signed by the same person, and also a paper purporting to be a petition found among the files of the Court of Claims in the case of Henry T. Cate vs. The United States, dated March 11, 1892, and also a package of papers containing the testimony of one Henry T. Cate and others found in the same files, and ask you to compare the signatures of the first two papers referred to with the signatures of the other papers and state whether or not in your opinion the signatures on all the papers were written by the same person?

(Handing witness papers.)

607 Mr. BIRNEY: I object to the question on the ground that it appears—referring to the two papers first mentioned as found among the papers of George B. Edmonds, the signature in each case is witnessed by two attesting witnesses, and it is the evident purpose of the inquiry to attempt to prove these papers and they are proveable only by the attesting witnesses and not by expert testimony.

The AUDITOR: I will allow the question to be answered, and whether it is sufficient proof to establish the rights of Mr. Cummings' intestate under these papers may be considered further along in the case.

A. It is my opinion that the signatures on all the papers submitted were written by the same person.

By Mr. TUCKER:

Q. I hand you a paper taken from the files of George B. Edmonds purporting to be a fee contract dated March 25, 1886, and signed by Jane A. Sutton, and also two letters taken from the same files, one dated March 16, 1886, and the other dated March 25, 1885, addressed to Mr. Edmonds and purporting to be signed by Mrs. Jane A. Sutton, and ask you to compare the signatures on those papers with two letters dated January 26, 1891, and November 26, 1892, and a postal card dated April 6, 1891, all addressed to the defendant, Moyers, and taken from his office files, and ask you to state whether in your opinion the signatures on all of these papers submitted to you were written by the same person? (Handing witness papers.)

608 A. It is my opinion that the signatures on all of the papers submitted were signed by the same person.

Q. I take from a jacket found among Mr. Edmonds' effects, marked Richard Butler, a paper dated February 8, 1886, purporting to be a fee contract signed by Richard Butler by his mark and Mr. William Morrell and John G. Butler as attesting witnesses, and also a paper taken from the Court of Claims files in the case of Richard Butler vs. The United States purporting to be a petition to Congress signed by Richard Butler, by his mark, before Jane Butler and William Morrell as witnesses, and ask you to compare the signatures of the attesting witnesses and state whether in your opinion the signatures of the attesting witnesses on both of the papers were written by the same persons. (Handing witness papers.) A. I give it as my opinion that the signatures of the witnesses were written by the same persons.

Q. I hand you a paper purpor-ing to be a fee agreement, dated February 11, 1886, signed by John P. Davidson and taken from a jacket found among Mr. Edmonds' effects, and also the following papers taken from the Court of Claims files all bearing what purports to be the signature of the same person, namely, deposition of J. P. Davidson, also power of attorney dated the — day of March, 1874, purporting to be signed by J. P. Davidson, also power of attor-

ney dated April 18, 1877, also affidavit purporting to be signed by J. P. Davidson, dated 4th of February, 1877, also affidavit dated June 6, 1888, which purports to be signed by J. P. David-
609 son, and ask you to examine all of those signatures and state whether in your opinion they were written by the same person?

Mr. BIRNEY: It is understood that my first objection applies to all these questions.

A. It is my opinion that the signatures to all the papers submitted were written by the same person.

Q. I hand you a paper purporting to be a fee agreement taken from Mr. Edmonds' effects, dated February 22, 1886, purporting to be signed by W. R. Wellborn, also one letter addressed to Mr. Edmonds, dated February 10, 1886, and purporting to be signed by W. R. Wellborn, and ask you to compare those signatures with the signatures on the following papers taken from the Court of Claims files, namely, a petition dated April 9, 1892, signed by William R. Wellborn, a petition dated October 21, 1871, signed by W. R. Wellborn, and deposition of William R. Wellborn, and ask you to state whether in your opinion the signatures were written by the same person? (Handing witness papers.) A. It is my opinion that the signatures on all the papers submitted were written by the same person.

Q. I hand you a paper purporting to be a power of attorney, dated April 16, 1886, signed Jasper Gall, fee agreement dated April 16, 1886, signed by Jasper Gall, and letter dated March 3, 1886, signed Jasper Gall, all three found among the effects of Mr. Edmonds, and ask you to compare them with the signatures of Jasper Gall in the following papers found among the files of the Court of Claims: pe-

titition dated June 23, 1871, and the deposition of the same
610 person found among the Court of Claims files, and ask you to compare all of these signatures and state whether in your opinion they were written by the same person? (Handing witness paper.) A. It is my opinion the signatures on all the papers submitted were written by the same person.

Q. I hand you paper purporting to be a fee agreement dated February 4, 1886, signed Paige Braboy, before William L. Alexander and W. W. Alexander witnesses, found among Mr. Edmonds' effects, and the following paper taken from the Court of Claims files containing the signature of Paige Braboy, namely, deposition of Paige Braboy, taken May 3, 1893, and ask whether in your opinion those signatures were all written by the same person? A. It is my opinion that the signatures on all the papers submitted were written by the same person.

Q. I hand you a power of attorney dated October 14, 1886, purporting to be signed by John Ehs, by mark, before J. M. H. Martin, and Maggie Ehs attesting witnesses, found among Mr. Edmonds' effects, and also a petition found among the Court of Claims files

signed by John Ehs, by his mark, before J. M. H. Martin and Maggie Ehs and dated the same date, and ask you to compare the signatures of the attesting witnesses and state whether they were written by the same persons? A. It is my opinion that the signatures of the witnesses to the papers submitted were written by the same persons.

Q. I hand you a paper taken from Mr. Edmonds' effects and purporting to be a fee agreement, signed by Anna Hunt in the presence of O. H. McGinty and R. Harrison, dated June 1, 1886, 611 and also two letters dated May 7, 1886, and June 1, 1886, addressed to Mr. Edmonds and signed by H. E. Newton, both relating to Mrs. Hunt's claim; I also hand you a paper taken from the Court of Claims files and being a petition addressed to that court, filed June 30, 1890, signed by Anna Hunt, and sworn to by her before O. H. McGinty, chancery clerk. Please compare the signatures of Anna Hunt on the Edmonds papers with the signatures of Anna Hunt on the Court of Claims petition, and also the signature of O. H. McGinty on the Edmonds paper with the signature of O. H. McGinty on the Court of Claims paper and state whether in your opinion they were written by the same persons? A. It is my opinion that the signatures of Anna Hunt and O. H. McGinty on the papers submitted were written by the same person.

Q. I hand you a paper found among Mr. Edmonds' effects, dated April 28, 1886, purporting to be signed by Hattie E. Ladd before W. K. Black and Thomas Ladd, and also a power of attorney dated April 28, 1886, to George B. Edmonds and purporting to be signed by Hattie E. Ladd in the presence of W. K. Black and Thomas Ladd, found among the Court of Claims files, and ask you to compare the signatures of the several parties and state whether in your opinion they were written by the same persons (handing witness papers)? A. It is my opinion that the signatures to the papers submitted were signed by the same persons.

Q. I hand you a letter found among the office files of the 612 defendant, Mr. Moyers, dated August 19, 1886, purporting to be signed by J. M. Harding, also letters purporting to be signed by J. M. Harding found among Mr. Moyers' papers dated June 5, 1890, December 27, 1895, May 22, 1891, May 22, 1893, and ask you to examine the signatures of J. M. Harding on all the papers submitted to you and state whether they were signed by the same person. A. It is my opinion that the signature of J. M. Harding on all the papers submitted were written by the same person.

Q. I hand you a paper, being a fee agreement dated October 16, 1886, purporting to be signed by W. Williams in the presence of John F. Brown, found among the effects of Mr. Edmonds, and a petition found among the Court of Claims files, signed Wilson Williams and sworn to before John F. Brown, chancery clerk, dated February 14, 1890, also a petition found among the Court of Claims files signed Wilson Williams and sworn to before John F. Brown January 11, 1888, and ask you to compare the signatures of Williams

and Brown on the several papers and state whether in your opinion they were signed by the same person. A. It is my opinion that the signatures on all the papers submitted were written by the same persons.

Q. I hand you a fee agreement dated March 10, 1886, found among Mr. Edmonds' effects and purporting to be signed by J. R. Hornbaker, and also a petition found among the Court of Claims

files, bearing the file mark, "Filed August 7, 1890," and
613 signed by J. R. Hornbaker, also a petition found among the

Court of Claims files and dated May 7, 1894, signed J. R. Hornbaker, and ask you to compare the signature of J. R. Hornbaker on the several papers, and state whether in your opinion they were written by the same person. A. It is my opinion that the signatures of the papers submitted were written by the same person.

Q. I hand you a fee agreement dated June 3, 1886, found among Mr. Edmonds' effects and purporting to be signed by William T. Fauber, and also a petition to the commissioners of the Court of Claims found among the files of the Court of Claims and bearing the file mark March 3, 1892, and also a petition addressed to the Court of Claims and bearing the Court of Claims file mark of May 29, 1894, signed William T. Fauber, and ask you to examine the signatures on all the papers submitted to you and state whether in your opinion they were written by the same person? A. It is my opinion that the signatures on all the papers submitted were written by the same person.

Hearing adjourned subject to notice.

DEC. 10, 1901—2 p. m.

Hearing pursuant to notice.

Present: Messrs. Tucker, Birney and Cummings. H. S. Cummings recalled by Tucker.

HORACE S. CUMMINGS, having been recalled for further examination testifies as follows:

614 By Mr. TUCKER:

Q. Please state whether last summer you made an examination of the office papers of the defendant in the Anna Hunt claim? A. I did.

Q. What, if any paper, did you find among the office papers in that case, in which the name of Mr. Edmonds figured? A. In looking over the papers in the Anna Hunt case, I found a memorandum written by Col. Moyers directed to some person not named, directing that the deposition of the "widow lady" residing near some place that I can not recall, should be taken at once, as Mr. Edmonds was anxious that the case should be pushed.

Q. In whose hand writing was that paper? A. Col. Moyers.

Q. Please state whether or not it was signed by Col. Moyers? A. I think the initials "G. M." were signed to it.

Q. Where did you make this examination of the papers in the Anna Hunt case? A. At the table, in this room.

Q. What, if anything, was done with those papers including the one you have testified to, after your examination of them? A. I called your attention to it and suggested that these papers—

Birney objects.

615 Q. State what was done with all papers including that particular paper? A. They were handed to the auditor for him to put in his safe.

Q. Are you familiar with the handwriting of the defendant, Gilbert Moyers? A. I am.

Q. You have seen him write? A. I cannot say that I have seen him write, but I have seen a great deal of his writing that I know was his.

Q. You have had correspondence with him? A. I have.

Cross-examination.

By Mr. BIRNEY:

Q. On what kind of paper was this writing? A. On ordinary, as I recall, ordinary letter paper.

Q. Was there any other writing upon that paper other than the memorandum you have mentioned? A. I could not say; that was the only part that struck me as being of interest to me, and I could not recollect whether there was any other.

Q. And you cannot say whether there was any other writing on that sheet of paper? A. I cannot recall positively, but I am of the impression that on the other side of the sheet there was writing.

Q. On the back? A. I would not say positively.

616 Q. Can you give the language of that writing? A. Only as I have stated, but I recollect specially the phrases in which he described the "widow lady."

Q. Did you ascertain to whom that designation applied? A. I did not.

Q. Can you tell to whom that memorandum was addressed, if to any one? A. I could not, for there was other writing on that paper that might show it. I only remember coming across that statement, and the rest I paid no attention to.

Q. Was Mrs. Hunt's name mentioned on that paper and if so, how? A. I do not think it was.

Q. And the supposed witness's name was not mentioned? A. No.

Q. Nor the commissioner? A. No, not as I recollect.

Q. You have given the fullest description now that you can give? A. I think I have.

Q. Was that paper attached to any other paper? A. I don't think it was.

Q. Was there more than one sheet? A. Not as I recollect, but in this statement I only simply say it was the substance of what I read that directed my attention. I supposed that the paper would be in evidence.

617 Mr. TUCKER, having first been duly sworn, testifies as follows:

In connection with Mr. Cummings, on one day last summer, in the auditor's office I made an examination of the office papers, produced by the defendant in this case, that of Anna Hunt, administratrix, against The United States. Among these papers, we found a slip of paper containing writing signed by Gilbert Moyers, or "G. M." and containing in substance a direction to someone whose name was not mentioned, to take the deposition of the "widow lady" near a place, the name of which I do not recall, but think it was Natchez, Mississippi, and stating further that Edmonds was anxious to have the claim prosecuted vigorously. The slip of paper was replaced by us among the other office papers of the Anna Hunt case, and the batch of papers were handed to the auditor in order that he might place them in his safe. The papers were taken from the safe and used in the course of taking testimony in the case. They were subsequently taken from the auditor's office by the defendant, Moyers and were returned by him only after considerable effort was made to induce him to bring or send them again to the office of the auditor. I again examined the papers and found that the slip of paper containing the handwriting I have mentioned was missing from the batch of papers.

Cross-examination.

By Mr. BIRNEY:

618 Q. Please describe that piece of paper? A. As I recall it, it was on a half or quarter sheet of paper, and my best recollection is that the writing on it was in pencil, the substance of which I have already given as near as I can recollect it.

Q. Was there any other writing on that piece of paper? A. I do not recollect that there was.

Q. Not on either side? A. I do not recollect it.

Q. To whom was that writing addressed? A. To no one.

Q. State as near as you can the language of that memorandum? A. I can not state the exact language, in substance however it was a direction to take testimony of the "widow lady," residing near some place, the name of which I cannot recall, but I think it was Natchez, Miss., as soon as possible as Edmonds wanted the case pushed. That was signed either Gilbert Moye-s or "G. M." and was written in pencil.

Q. It was written? A. Yes sir.

Q. And that might have been a memorandum reminding the writer that he was to do something? Might it not?

Mr. TUCKER: I object to that form of question.

ROBERT JOHNSON recalled to the witness stand.
619 Mr. Birney states that he offers this witness to show the cost and expenses incurred in the course of the prosecution of these cases, shown in Exhibit A. in the bill of complaint.

Mr. Birney further states that his purpose is, the witness having examined the evidence in the Court of Claim-, to have him testify as to witness and attorneys' fees shown on those records ; also the number of pages of typewritten matter.

The cases to which his attention will be called are as follows :

Henry T. Cate.

James C. Tappan, administrator of Sutton.

John P. Davidson.

William R. Wellborne.

Jasper Gall.

Bagnell, administrator of Bravoy.

Anna Hunt, administratrix of George F. Hunt.

M. K. Thornton.

Wilson Williams, administrator of Roderick Williams.

J. Hardin, administrator of Maury.

Mr. Tucker objects to testimony here offered to be produced, on the ground that the defendant at the commencement of the accounting, and throughout the accounting, has denied that any of the claims mentioned were partnership claims, or that the decedent, Edmunds, or his estate, has any interest whatever in them, and therefore that the defendant should not now be allowed to re-open
620 the case in order to produce this testimony, and in view of the possible finding by the auditor that the claims mentioned were partnership claims—

Mr. BIRNEY: The testimony is offered in view of the claim made by the complainant that these are partnership claims and that the defendant should be charged on account of liability for fees received. If this be true he is also entitled to credit for costs expended. It does not change or elaborate his claims in any wise that these are not partnership cases.

The objection is overruled.

Mr. Tucker notes an exception to the ruling.

ROBERT JOHNSTON testifies as follows :

By Mr. BIRNEY:

Q. Please state your occupation. A. Stenographer and clerk.

Q. By whom employed ? A. Col. Gilbert Moyers.

Q. How long have you been in the employ of Col. Moyers ? A. Two years last May.

Q. Have your duties while in his employ made you familiar
621 with the Court of Claims records ? A. Yes.

Q. Have you at the instance of counsel for the defendant, examined the court files in the case of Henry T. Cate ? A. I have.

Q. You ascertained the costs charged on these files as having been created in that case? A. Yes.

Q. You have made a memorandum of that and other cases already mentioned in your hearing, showing the costs and expenses? A. Yes sir.

Q. Please look at your memorandum and say what the Court of Claims files show were the costs, giving the items? A. On the testimony taken at Fayetteville, Arkansas, there is noted on the certificate of the notary \$3.60 paid; (that is itemized showing how it is made up.) Then, of course, there are the expenses of preparing briefs.

Q. I want the costs first? A. Three dollars and sixty cents.

Q. What typewriting work, in additional to the costs of taking testimony is there? A. I find twelve pages of typewritten legal cap, claimant's brief on loyalty; also 28 pages of his brief on merits, typewritten legal cap, and four pages of defendant's brief on merits, making 44 pages of typewritten briefs.

Q. I direct your attention to the case of James C. Tappan, 622 administrator of Sutton, and ask what costs and expenses you found charged in that case? A. I found 15 pages of deposition and I estimated by counting a few pages, to find the number of words in a page and 35 folios at 15c. per folio, which is allowed by the rules of the court, makes \$5.25, and with a *per diem* of \$3.00 makes the total amount of \$8.25. That would be the cost of taking the deposition.

Q. Did you find any other taxed costs of that kind or not? A. No more.

Q. What typewriting did you find? A. I found five pages of typewriting briefs on loyalty and ten pages of typewritten briefs on merits, making 15 pages of typewritten matter.

Q. Please state what you found in the case of John P. Davidson? A. I found charges marked on the depositions taken by Miss O'Neal, commissioner at Rome, Georgia, on Jane. 10, 1893, \$12.23, and depositions taken at Rome Georgia on Jan. 25, 1893, \$5.55, marked on them as commissioner's fees.

Q. Did you find any typewriting? A. Yes, 12 pages of typewriting in brief on loyalty, 57 pages of typewriting in briefs on merits, and 2 pages of reply to def'ts' briefs on merits, making 71 pages of typewriting matter in the briefs.

Q. State what you found in the case of William R. Wellborne? A. I found the deposition taken Oct. 1, 1890, at Madison, 623 Georgia, consisting of 115 folios as I estimated it after counting a few pages, at 15c. per folio, \$17.25, and the *per diem* of \$3.00. Then depositions taken Jan. 19, 1893, by Miss O'Neill, the fees are marked \$11.05. That is all the costs in those depositions.

Q. What did the typewriting cost? A. Twenty pages of brief on loyalty and twenty pages brief on merits.

Q. What did you find in the case of Jaspar Gall? A. I found twenty-one pages of depositions and estimated it at 45 folios, that

allows two folios to a page at 15c. per folio and amounts to \$6.75 with a *per diem* of \$3.00. That was all on deposition.

Q. What about the typewriting? A. Nine pages, brief on loyalty, three pages of reply to defendant's brief on loyalty, six pages of brief on merits, and one and one-half pages of reply to defendant's brief on merit-, making a total of $19\frac{1}{2}$ pages.

Q. What did you find in the case of Bagnell, administrator of Brayboy? A. I did not find any depositions with the papers; they were taken after the case was referred to the court, but I looked through the brief and the brief shows that such depositions were taken.

Q. Is there anything in the papers to show the costs of these depositions? A. No, sir.

Q. What typewriting did you find? A. Nine pages of brief on loyalty and 38 pages of briefs on merits.

624 Q. In the case of Mrs. Labb what did you find? A. I found depositions consisting of 58 folios at 15c. making \$8.70 and a *per diem* charge of \$3.00, which makes a total of \$11.70.

Q. Any typewriting? A. Three pages of brief on loyalty, 28 pages of briefs on merits and 2 pages of reply brief on merits.

Q. What did you find in the case of Anna Hunt, administratrix of George F. Hunt? A. I found depositions taken by Mr. Shelton, Oct. 18, 1899, 60 folios, at 15c., \$9.00, and a *per diem* of \$3.00, and deposition taken November 9, 1890, 142 folios at 15c., \$21.30, with a *per diem* of \$3.00.

Q. What typewritten matter? A. Fifteen pages of brief on loyalty and 79 pages of brief on merits.

Q. What did you find in the case of J. Harding, administrator of Maury? A. I found a deposition taken May 3, 1893 upon stipulations between the attorneys; that it should be taken on interrogatories; about 40 folios with a *per diem* of \$3.00. A deposition taken at Port Gibson on Nov. 20, 1889 by Mr. Shelton, 21 pages of writing, and about 50 folios; that would be \$7.50 and with a *per diem* of \$3.00.

Q. What of typewritten matter? A. Thirty six pages of brief on loyalty, 8 pages of supplemental briefs on loyalty and 25 pages of brief on merits.

625 Q. What did you find in the case of Wilson Williams, administrator of Roderick Williams? A. I found depositions taken by Mr. Shelton at Oxford, Miss., 29 pages, which I estimated at 80 folios, \$12.00, and a *per diem* of \$3.00; then there were some depositions taken at Pine Flat Church, consisting of 23 folios, \$3.45 and a *per diem* of \$3.00.

Q. What typewriting? A. Seven pages of brief on loyalty, 14 pages of brief on merits and 2 pages of reply to defendant's brief on merits.

Q. What did you find in the case of M. K. Thornton? A. I found deposition consisting of 35 folios at 15c., \$5.25, with a *per diem* of \$3.00.

Q. What typewriting? A. I found brief on loyalty 10 pages and 28 pages of brief on merits.

Mr. Tucker moves to strike out all testimony of witness on the grounds set out in the objection made to the offer of proofs heretofore named.

The objection is overruled.

Mr. Tucker notes the exception.

Mr. Tucker also moves to strike out all the testimony of the witness as to the commissioner's charges, based upon the number of folios in the depositions in the respective cases. And also as to the commissioner's *per diem* charges upon the ground that it has not been shown by witness that the charges of the commissioner 626 were ever paid by the defendant, and also upon the ground as to the number of folios, its testimony consists simply of estimates. He also further objects to the witness's testimony concerning the number of pages of typewritten matter found in each claim, on the ground that there is no testimony showing that this typewriting was paid for by the defendant or was done by the clerk or clerks in his employ, and if done by the clerk or clerks, what the salary of those clerks was.

TUESDAY, Dec. 17, 1901—10.30 a. m.

Present: Messrs. Tucker and Birney.

GILBERT MOYERS, having been re-called, testifies as follows:

By Mr. BIRNEY: Testimony has been given here by Mr. Cummings and Mr. Tucker as to a certain paper said to have been found in the files of the case of Anna Hunt, administratrix, when your office files were first produced before the auditor and not now found there.

Q. Have you that paper or any part of it, if so please produce it and make any statement to the auditor about it that you may wish.

Witness produces paper.

A. I have the paper referred to very near complete. There is one small strip missing. When the papers were returned to me, (I think 627 Mr. Wilson, a clerk in my office came after them) I found this slip in the jacket. It was not there when it left my office originally. I know that because we keep a schedule of each and every paper in the jackets. This paper related to a different case entirely, a case at Natchez, Mississippi, some fifty miles by — from Rodney, where Mrs. Anna Hunt's case is located, and Mrs. Hunt resided. There is enough of that paper to establish that.

Q. You now have that paper here? A. Yes.

(Hands counsel the paper.)

Q. This paper, as you produce it, is in four strips torn from the

bottom to the top of the sheet. Please explain how the paper was torn and how it is that it is incomplete in one strip, as you have already stated? A. Mr. Wilson and I were going through the papers and we found that paper in the case. As it did not relate to the Anna Hunt case, it was torn up. It was never placed in that jacket by me or by my authority.

Q. In whose handwriting is the writing written across the paper from left to right? A. It appears to be in my handwriting except the initials "G. M." I never write G. M., except by cutting those two letters.

Q. In whose handwriting is the writing in ink, as follows, "Hunt Miss. Get papers for brief 6560?" A. That is not in my handwriting or the handwriting of any of my clerks for the last ten years.

Q. Do you know whose handwriting it is? A. I do not. It is fresh writing and the number is changed. The party writing 628 evidently made a mistake changing the number "0" to "8."

Q. 6568? A. Yes sir, they evidently discovered the number of the Hunt case to be 6568 and changed it to an 8.

Q. Where was the testimony in relation to Mrs. Hunt's case taken? A. It was taken principally at Carey, some fifty or seventy-five miles away; it is a station on the railroad. That is the testimony was taken principally there as the claims arose upon a plantation belonging to the Hunt estate at that station. There was also testimony taken at Rodney where Mrs. Hunt resided; that covered the homestead about six miles from Rodney.

Q. Before this paper was torn, as you have stated, was it not longer than it is now? A. No, I think not. It evidently was not.

Q. Was there any other writing upon it than what is now found in the ink marginal writing and the pencil writing if filled out with the missing strip? A. No.

Q. What testimony, if any, touching the Hunt case was taken at Natchez? A. No testimony in the Anna Hunt case was ever taken there.

Q. Were there any other cases among those produced herein, in which testimony was taken at Natchez? A. There was a case or two which I recall was dismissed by the court for the reason that proof of loyalty was insufficient, that were Edmonds cases. I can give the cases by an examination of the jackets. I think the case 629 of Mrs. Chamberlain was one, and also the case of Mrs. Owen, whose cases originated in that locality.

Q. What was there on this paper to indicate that Natchez was the place concerned? A. No part of the word Natchez is very distinct.

Q. Where? A. On the second line.

Q. That pencil writing? A. Yes sir, and I know it was a case near Natchez or at that city to which this memorandum related.

Q. Did you read the memorandum before it was torn? A. Yes

sir. I found it was not on the schedule and did not relate to that case.

Q. Are you able to recall with any distinctness the words which do not now appear in the writing by reason of the missing strip? A. I can not fill those out accurately, but there is a "M" and reference to a lady's claim in that locality.

Mr. Birney offers the paper in evidence and it is marked Exhibit G. M. Dec. 17/01.

Cross-examination.

By Mr. TUCKER:

Q. How soon after these papers were taken from the auditor's office in the Anna Hunt case was this slip of paper discovered, torn up, and thrown in the waste basket? A. I think I did not examine the papers until about the time they were returned here, it may have been some little time previous to that.

630 Q. Why did you not return this slip with the other papers and make an explanation? A. For the reason that in comparing and making up this schedule that paper was not among them.

By Mr. BIRNEY:

Q. Where is Mr. Wilson now? A. He is at the Soldiers' Home at Hampton, Virginia.

Q. He is not in your service now? A. No, sir.

Q. Did he take this paper with him? A. I do not know.

Q. How do you know that this paper was not in the case at that time? A. Because it was not shown by the schedule.

Q. Where is that schedule now? A. Mr. Wilson has it.

By Mr. TUCKER:

Q. You mean to say that you had a schedule for every case that was filed in your office? A. In every case brought to this office.

Q. What is case No. 6560? A. I have not examined my dockets to see.

Q. Is that 6560 or 6568, is that your office number or the Court of Claims number? A. I do not know, I have not examined the files to see, I should have examined the files this morning.

Q. This writing in ink was on the paper when you found it, was it not? A. It was.

631 Q. Can you tell us definitely what case this paper referred to if it does not refer to the Anna Hunt case? A. I cannot, only it refers to a case at Natchez.

Q. By examining this paper can you state exactly what the official memorandum of this account was originally? A. I cannot state fully.

Q. Examine it and state what you can. I want you to supply the missing words and give us the whole contents of the paper as

near as you can. A. There was a number of words there but I could not give them. The words, Natchez, and lady are very distinct.

Q. Please read this paper which I understand is in your handwriting, all except possibly the initials G. M., according to your testimony as it now appears.

Witness reads paper as follows—"In the," this word, "taking," and then the word "Natchez" and "that lady," then the word "Edmonds," "I am especially," then the word "I" and "th," then something missing, and then "M-y." The next word I cannot make out, "nohow a," then "G. M." apparently without date being carried out.

Q. Apart from this schedule which you say was made, can you state positively whether or not this slip of paper was in your office files in the Anna Hunt case? A. It was not.

Q. You recollect that independent of this alleged schedule? A. I do.

632 Q. Do you remember any other papers that were in the Anna Hunt case? A. I can mention some letters.

Q. Mention some. Q. Letters in regard to taking testimony, letters to Bijah Hunt, a letter advising him to come to Washington, another letter promising to pay part or all of the expenses of his case—

Q. How many papers would you say were in that case? A. I suppose possibly fifteen or twenty, perhaps more.

Q. Do you think there were over twenty-five or thirty? A. I should say fifteen or twenty at least.

Q. And you only recall these two or possibly three letters that were received from Bijah Hunt? A. I did not say two or three.

Q. What did you say? A. I said several.

Q. Do you recall any other letters from Mr. Hunt? A. A letter from Mr. Newton, a son in law of Mrs. Hunt, bearing date 1886 or 1887.

Q. How many? A. I could not say.

Q. Can you make a rough estimate of it? A. I could not say, probably four, five, or six, I could not say.

Q. How far is Natchez from Rodney? A. About thirty miles as the crow flies, by river I should judge it was about fifty miles. 633 Q. How large a place is Rodney? A. It does not contain more than one hundred and fifty inhabitants.

Q. Is Natchez the nearest city to Rodney? A. I think Vicksburg is further than Natchez. Natchez is about the center of Adams county.

Q. Do you recall the Susan Merrill case? A. Very clearly.

Q. Do you recall what the fee agreement in that case was? A. My recollection is that it was fifty per cent., but I would not be certain. That was settled by Mr. Francis and he collected the fee, it being his case. I can state by reference to my books what it was.

HORACE S. CUMMINGS, ADM'R, ETC.

Q. Is it not the case in which he gave you his note f
in that case? A. Yes sir, that and another case in Hot Sp
had the money which I gave to him and he gave me his note. It
was subsequently paid out of the Bagley case.

Q. What proportion of the fee in the Susan Merrill case was his
and what yours? A. I took a contract to collect his claims for ten
per cent.

Q. Collect whose claims? A. Mr. Francis'. He turned all of them
over to me.

Q. Do I understand that in this Merrill contract you only got ten
per cent. of the fee? A. That was according to our contract, there
might have been some expenses.

Q. If the judgment was for eight hundred and fifteen dollars
634 the fee of fifty per cent. would be a little over four hundred
dollars, do I understand you to say you received but forty
dollars as a fee in that case? A. That is my recollection, with
possibly some additional compensation for expenses incurred that I
do not remember.

Q. What was the amount of Mr. Francis' note to you? A. A
little over three hundred dollars I think, I can give you the amount
by a reference to my books or the note.

Q. You think this Susan Merrill case was originally sent to you
by Mr. Francis under your agreement to prosecute his cases for ten
per cent. of the fee? A. I do not think so but know so. He had
the case before the commissioner of claims, that is the firm of Pruitt
& Francis.

Hearing is adjourned subject to notice.

635 *Order Over-ruling Defendant's Motions to Remand Cause to
Auditor, &c.*

Filed February 5, 1903.

In the Supreme Court of the District of Columbia, Holding an
Equity Court for said District.

HORACE S. CUMMINGS, Administrator of the
Estate of George B. Edmonds, Deceased,
Complainant,

} Equity. No. 20802.

vs.

GILBERT MOYERS, Defendant.

This cause having come on to be heard upon the motions of the
defendant to remand the cause to the auditor of this court and for
leave to file a cross bill herein, and upon the exceptions of the de-
fendant to the report of the said auditor, which report was filed on
the 20th day of August, 1902, (the exceptions of the complainant to
said report having been withdrawn) and after argument by the

solicitors for the respective parties, it is, by the court, this 5th day of February, A. D. 1903, adjudged, ordered and decreed as follows, to wit:

1. That said motions of the defendant be, and they are hereby, over-ruled.

2. That the exception of said defendant to said report relating to the claim of R. M. Johnson, administrator of Samuel Heard, which the auditor found to be a partnership claim and in which he further found that the defendant collected a fee due said partnership of \$1,052.50, of which one-half was payable to the complainant, be, and the same is hereby sustained.

636 3. That each and every of the defendant's other exceptions to the said report be, and the same are hereby overruled, and that the said report be, and the same is hereby in all things, except as to the finding in the matter of said claim of R. M. Johnson, administrator of Samuel Heard, deceased, ratified and confirmed.

4. That the defendant be, and he is hereby directed to pay within ten days after the passage of this order to the complainant, as administrator of the estate of George B. Edmonds, deceased, the sum of ten thousand and seventy-four dollars and seventy-nine cents (\$10,074.79), with interest thereon at the rate of six per centum per annum from September 16, 1899, until paid, and the costs of this suit to be taxed by the clerk of this court; the complainant to have execution therefor as at law, together with such other remedy or remedies for the enforcement of this decree as the law provides for.

5. That this cause be, and the same is hereby retained, and the right saved and reserved to the complainant to apply to this court from time to time for an order or orders for the payment of such other and further sums of money as he may show to have come into the hands of the defendant as surviving partner of the partnership heretofore adjudged to have existed between the said defendant and the said George B. Edmonds, deceased, or into the hands of the receivers heretofore appointed herein, or which may hereafter come into the hands of said defendant or said receivers, or either of them, and which may be due to the complainant as administrator of the defendant's said deceased partner, George B. Edmonds, by reason of the existence of said partnership.

A. B. HAGNER,
Asso. Justice.

637-642 From the above order and decree the defendant prays an appeal, which is allowed and the penalty of the appeal bond fixed at twenty thousand dollars.

A. B. HAGNER,
Asso. Justice.

Feb'ry 5, 1903.

Memorandum.

February 28, 1903.—Appeal bond filed.

* * * * *

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Stipulation and Order, &c.

Filed April 13, 1903.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, Com- }
plainant, } No. 20802. Equity.
vs. }
GILBERT MOYERS, Defendant. }

It is hereby stipulated and agreed by and between the parties hereto, that whereas the defendant, Gilbert Moyers, has an appeal pending from the decree of this court to the Court of Appeals of the District of Columbia.

And, whereas, the time allowed under the rules of the court for the filing of transcript expires on or about April 16, 1903;

Now, therefore, in consideration of negotiations now pending for a settlement of the matters now involved in said appeal and in this cause, it is hereby stipulated and agreed that the time for filing said transcript on appeal may and shall be extended until and including May 16, 1903: Provided, that on or before April 30, 1903, the defendant herein shall deposit with the clerk of this court the money necessary to secure such transcript; this stipulation to be considered null and void, unless such deposit be made as aforesaid.

Signed, this 10th day of April, A. D. 1903.

CHAS. COWLES TUCKER,
Solicitor for Plaintiff.
BENJ. CARTER,
Solicitor for Defendant.

644-651 In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of }
George B. Edmonds, Dec'd, Plaintiff, } No. 20802. Equity.
vs. }
GILBERT MOYERS, Defendant. }

Order.

Upon consideration of the attached stipulation filed in this cause, it is hereby ordered that the time allowed defendant for filing transcript on appeal to the Court of Appeals of the District of Columbia, be and the same is hereby extended until and including May 16, 1903, provided, that on or before April 30, 1903, the defendant shall deposit with the clerk of this court, the money necessary to procure

such transcript, this order to be vacated in default of such deposit within the time above mentioned.

By the court this 13th day of April, 1903.

A. B. HAGNER,
Associate Justice.

* * * * *

Stipulation as to Time for Transcript.

Filed May 18, 1903.

In the Supreme Court of the District of Columbia.

H. S. CUMMINGS, Adm'r, etc., }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

It is hereby stipulated and agreed that the time for filing transcript of record required in the pending appeal of defendant, to wit, from the decree of the court entered on February 5th, 1903, be and is extended to and including the 15th day of June, 1903.

CHAS. COWLES TUCKER,
Solicitors for Complainant.
BENJ. CARTER,
Solicitor for Defendant.

Extension of Time to File Transcript.

Filed May 18, 1903.

In the Supreme Court of the District of Columbia.

H. S. CUMMINGS, Adm'r, etc., }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

On consideration of and in accordance with stipulation of counsel of this day, it is, on this the 16th day of May, 1903, by the court ordered that the time, heretofore limited by stipulation of
653 counsel to this day, for filing transcript of record for appeal of defendant from decree rendered on February 5th, 1903, be and is extended to and including the 15th day of June, 1903.

By the court:

A. B. HAGNER,
Associate Justice.

Order Further Extending Time.

Filed June 12, 1903.

In the Supreme Court of the District of Columbia.

H. S. CUMMINGS, Adm'r,
vs.
GILBERT MOYERS. } Equity. 20802.

On consideration of the motion of defendant filed on the 9th day of June, 1903, to extend the time, beyond the present limit of June 15th, 1903, for filing transcript of record required in the prosecution of defendant's appeal from the decree of the court rendered on February 5th, 1903, and of the affidavit of John R. Young, filed by defendant in support of such motion, it is by the court ordered that the time for filing such transcript be and it is extended to the first day of August 1903.

THOMAS H. ANDERSON, *Justice.*

654

Order Reviving Cause, &c.

Filed July 10, 1903.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, &c.,
vs.
GILBERT MOYERS. } Equity. No. 20802.

This day came Charles F. Consaul and Ida M. Moyers and suggested to the court that since the last order was made in this cause the defendant Gilbert Moyers has departed this life. Thereupon, it appearing to the court that the said Charles F. Consaul and Ida M. Moyers have been appointed by this court, holding a probate court, as administrators of the estate of the said Gilbert Moyers, and by consent of the counsel for the plaintiff, it is this 10th day of July 1903, ordered, that the said Charles F. Consaul and Ida M. Moyers, as administrators aforesaid, be substituted as defendants in this cause in lieu of the said Gilbert Moyers.

And thereupon, by consent of the counsel for the respective parties to this suit, it is further ordered that the time for the defendant to file a transcript of the record in this cause in the Court of Appeals upon the appeal of the said Gilbert Moyers heretofore entered herein be, and the same is hereby extended to the 1st day of October next.

THOS. H. ANDERSON, *Justice.*

655

Defendants' Specification for Record.

Filed July 18, 1903.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, &c., }
vs.
CHARLES C. CONSAUL and IDA M. MOYERS, }
Administrators. } Equity. No. 20802.

To the clerk of the supreme court of the District of Columbia:

Partly in deference to views of counsel for complainant and partly in amplification of and for correction of clerical errors in the specification of original defendant, Gilbert Moyers, filed April 30th, 1903, the present defendants now specify the parts named below of the record in this cause as being necessary and sufficient, with certain stipulations of counsel, for full consideration and examination of all the matters embraced in the present appeal; which parts you are requested to include in the transcript of the record required for such appeal.

1. Bill of complaint, with all exhibits attached, filed September 16th, 1899.

2. Answer of defendant to bill of complaint, with affidavits attached, except those of Joseph A. Blundon and James A. Cahill, filed September 26th, 1899.

3. Joinder of issue on answer, filed September 26th, 1899.

4. Motion for call and order on Secretary of the Treasury for certain information, both filed March 7th, 1900.

656 5. Copy of original papers in United States Treasury, (omitting letter of transmittal) filed March 15th, 1900.

6. Defendants' motion for leave to amend answer, filed May 18th, 1900.

7. Order overruling above motion, filed May 18th, 1900.

8. Defendants' motion for leave to amend answer with affidavit thereto and amendment accordingly filed May 23rd, 1900.

9. Order of court allowing filing of supplemental answer, filed May 24th, 1900.

10. Supplemental answer, filed May 26th, 1900.

11. Motion to strike out portions of supplemental answer, filed June first 1900.

12. Order striking out portions of supplemental answer, filed June 5th, 1900.

13. Joinder of issue on supplemental answer, filed June 5th, 1900.

14. Decree referring case to auditor, filed June 13th, 1900.

15. Motion for appointment of receiver, filed June 12th, 1900.

16. Additional affidavit for appointment of receiver, filed June 14th, 1900.
17. Answer to application for receiver, filed June 20th, 1900.
18. Order appointing receivers, filed June 20th, 1900.
19. Report of receivers, filed June 28th, 1900.
20. Report and petition of receivers, filed January 7, 1901.
21. Order of reference to auditor, filed May 9th, 1901.
22. Auditor's report (omitting testimony attached), filed June 29th, 1901.
 23. Order cancelling bond on appeal, filed November 25th, 657 1901.
 24. Report of receivers, filed May 24th, 1901.
25. Order for receivers to collect money etc. filed June 3rd, 1902.
26. Motion to extend order of June 3rd, 1902, filed June 6th, 1902.
27. Certified copy of papers from Treasury Department, with letter of transmittal, filed June 7th, 1902.
28. Supplemental report of receivers, filed June 6th, 1902.
29. Report of auditor, filed August 20th, 1902.
30. Defendants' exceptions to report of auditor, filed September 20th, 1902.
 31. Complainants' exceptions to report of auditor, filed September 20th, 1902.
 32. Motion to open report of auditor and remand cause, filed December 11th, 1902.
 33. Cross bill, filed December 19th, 1902.
 - 33½. Motion for leave to file cross bill.
 34. Decree overruling motions to remand and for filing cross bill and overruling exceptions to report of auditor and confirming the same, filed February 5th, 1903.
 35. Petition of George M. Barber to intervene, filed March 3rd, 1903.
 36. Order allowing George M. Barber to intervene, filed March 3rd, 1903.
 37. Depositions of John C. Scott and others taken by Mason N. Richardson, examiner, one package, with accompanying exhibits (some detached).
 38. Deposition of Horace S. Cummings and others taken by Alexander H. Galt, examiner, one package.
 - 658 39. Depositions of Edward A. Balloch and others taken by J. Arthur Lynham and Mason N. Richardson, examiners, one package.
 40. Depositions of defendant and others taken before the auditor, one package with introductory statement of auditor.
 41. Defendants' bond for appeal from decree of February 5th, 1903.
 42. Order extending time for filing transcript, filed April 13th, 1903.

- 42½. Report of receivers, filed May 14th, 1903.
 43. Order extending time for filing transcript, filed May 18th, 1903.
 44. Order extending time for filing transcript, filed June 12th, 1903.
 45. Order substituting defendants and extending time for filing transcript to October 1st, 1903, filed July 10th, 1903.

C. C. COLE,
 BENJ. CARTER,
Solicitors for Defendants.

659 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, }
District of Columbia, } ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 658, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this record, in cause No. 20,802 equity, wherein Horace S. Cummings, administrator &c., is complainant, and Charles F. Consaul, *et al.*, are defendants, as the same remains upon the files and of record in said court.

Seal Supreme Court In testimony whereof, I hereunto subscribe
 of the District of my name and affix the seal of said court, at
 Columbia. the city of Washington, in said District, this
 15th day of September, A. D. 1903.

JOHN R. YOUNG, *Clerk.*

660 In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator of the Estate of }
 George B. Edmonds, Deceased, }
 vs. No. 1361.
 CHARLES F. CONSAUL and IDA M. MOYERS, Administrators of the Estate of Gilbert Moyers, Deceased. }

Stipulation.

It is stipulated by and between the parties hereto by their respective solicitors that the following are true and accurate copies of certain papers and documents introduced in evidence in this cause before the auditor upon the reference to him made by order of the court passed herein on the 13th day of June 1900, and that the same may be filed in the clerk's office of the Court of Appeals of this

District, and constitute a part of the record in the hearing of said cause on appeal without any certificate by the clerk of the supreme court of the District of Columbia. March 23d, 1904.

CHAS. COWLES TUCKER,
Sol. for Complainant.
C. C. COLE, *Sol'r for the Defendants.*

661

IDENTIFICATION H. B. C. No. 1.

Agreement.

Know all men by these presents, in duplicate, that the undersigned, attorneys of Washington, D. C., are special partners in the prosecution of the cases named in the schedule hereto attached now pending before the United States Court of Claims and the Congress of the United States, the fee agreed to be paid by the client in each case, being the percentum of whatever may be recovered as is stated herein, and the agreement between the undersigned being that each shall have half of said fees and that each shall pay one-half of the expense incident to the prosecution of the same, which expense is not to exceed $2\frac{1}{2}\%$ of the amount that may be allowed upon said claims.

And it is hereby agreed and understood that the said Gilbert Moyers shall represent and be associated with me in the prosecution of said claims before the Court of Claims and the Congress of the United States as joint attorney of record.

It is hereby understood and agreed that the undersigned Gilbert Moyers is to advance the expenses incident to the prosecution of said claims.

Witness our hands this 6th. day of February 1888.

GILBERT MOYERS.
GEO. B. EDMONDS.

662 In all of these cases where no fees are marked it is understood and is so stated that the fees I am to receive is fifty per cent.

Josiah L. Bell.....	3 R. 324 N. C. (40 per cent.)
David Banks.....	8 R. 152
Jas. C. Ballance.....	4 R. 462
Eliz. Covington.....	2 R. 132
Jas. Covington.....	5 R. 77
Win. R. Clark.....	3 R. 326
John Davis Jr.....	3 R. 328
Harvey Durham.....	4 R. 507
Margaret Duffey.....	3 R. 328
Daniel Daugherty.....	9 R. 146 (40 per cent.) (40 per cent.)

Jacob Duthit.....	4 R. 506	
J. S. Dev.	3 R. 308	(40 per cent.)
Israel S. Davis.....	18 R. 254	
Dorsey S. Deloath.....	4 R. 506	
Marcellus Edwards.....	9 R. 147	
Joseph Franklin.....	3 R. 330	
John J. Flenrrington.....	3 R. 334	
Jos. N. Feribur.....	3 R. 330	
Needham G. Gully.....	3 R. 334	
Wm. Grisson.....	6 R. 199	
Jas. H. Hyatt.....	3 R. 334	(33½ per cent.)
Stephen S. Howell.....	2 R. 138	(40 per cent.)
Hicajah Hardesty.....	7 R. 106	
Marinaduke Howard.....	4 R. 510	
Thos. D. Harris.....	4 R. 509	
Freeman Haines.....	2 R. 137	
Joseph Hays.....	2 R. 137	
Joseph C. Hogan.....	2 R. 137	
Arthur J. Hill.....	1 R. 32	(40 per cent.)
663 Rich W. Johnson	3 R. 334	N. C.
Joseph J. Jordan.....	3 R. 336	
Joseph Lawrence.....	8 R. 257	
Hugh Murdock.....	6 R. 202	(40 per cent.)
Joseph B. Mann.....	3 R. 338	(40 per cent.)
Frederick Mathis.....	3 R. 339	
Hector McMillan.....	2 R. 142	
Arch. S. McNeil.....	3 R. 79	
David W. Morton.....	3 R. 341	
May & Francis Morton....	5 R. 80	(40 per cent.)
Levi T. Oglesby.....	5 R. 160	(40 per cent.)
John F. Phifer.....	1 R. 32	
Drury Patin.....	7 R. 109	
Wm. J. Porter.....	3 R. 344	
Maria P. Royster.....	2 R. 145	
Joseph A. Smith.....	2 R. 147	
John S. Sugg.....	7 R. 111	
Daniel L. Smith.....	2 R. 146	
John H. Smith.....	2 R. 146	
Ezekiel Stevens.....	3 R. 349	
Susan Throgard.....	3 R. 351	
Nath. Thornton.....	4 R. 517	
Minerva Lilley.....	8 R. 261	
Naney T. M. Tooley.....	6 R. 204	
Nelson T. Thompson.....	6 R. 204	
Jacob Ulty.....	3 R. 518	
Thos. Waur.....	8 R. 262	
Jarvis M. Williams.....	7 R. 112	
John A. Williams.....	4 R. 520	

Esidore Cohen.....	.....	N. C.
Elzaih Parker.....	.....	"
664 Jane M. Anderson.....	.5 R. 52	La.
Zuline Anyamar.....	7 R. 73	
Irnia Brown.....	9 R. 100	
Francis Bondign.....	9 R. 99	
Carter Carr.....	9 R. 101	
Jeff J. Caffery.....	9 R. 101	
Euphoze Carlin.....	7 R. 76	
Celestine Danterive.....	7 R. 77	
Emily V. Glover.....	9 R. 105	
Josep Gall.....	9 R. 104	
John Gardiner.....	7 R. .99	
Jane Hopkins.....	7 R. 81	(33 $\frac{1}{3}$ per cent.)
Mary E. Jones.....	9 R. 112	
Johana Meeklas.....	9 R. 115	
Louise B. Martin.....	9 R. 114	
Thos. R. Smith.....	9 R. 117	
Sarah M. Spyker.....	8 R. 235	
Ezra B. Towne.....	4 R. 480	
Chesdester Estelte.....	9 R. 101	
Isaal Bloome.....	3 R. 284	
Cyntha A. Temple.....		
John Brewer.....	6 R. 142	Ark. (40 per cent.)
Chas. W. Bellnaff.....	9 R. 26	(40 per cent.)
Henry T. Cate.....	3 R. 235	
Hugh Dabkins.....	4 R. 442	
Jas. Daugherty.....	8 R. 183	
Mary England.....	3 R. 337	
W. H. Engels.....	3 R. 239	
Joseph Egener.....	2 R. .26	
J. J. Johnson.....	3 R. 245	(40 per cent.)
665 Avey Marrs.....	4 R. 448	
Andrew Marrs.....	3 R. 242	(33 $\frac{1}{3}$ per cent.)
E. A. & Mary E. Neely.....	2 R. 82	
Amanda Pakard.....	3 R. 244	
Thos. B. Paine.....	3 R. 244	
Samuel J. Sutton.....	4 R. 454	
John R. Sembler.....	2 R. 82	
Lucy N. Calwell.....	9 R. .28	
Samuel Fitzhugh.....	3 R. 233	
Eloise T. Beasley.....	4 R. 438	
Susan Richardson.....	7 R. .38	
Wm. Francis.....	2 R. 195	V.a.
Sarah Freeman.....	4 R. 567	
J. B. Fauber.....	2 R. 194	(40 per cent.)
Wm. T. Fauber.....	1 R. 47	(40 per cent.)
Hamson Fauber.....	2 R. 193	(40 per cent.)
John Funkhouser.....	2 R. 186	

Noah P. Gast.....	2 R. 196	
Robert Green.....	4 R. 569	
Samuel Glick.....	2 R. 197	
Emanuel Hoover.....	4 R. 57	
John T. Hottel.....	2 R. 200	
Wm. Hough.....	2 R. 200	
John P. Hanbaker.....	2 R. 200	
W. D. Hemp.....	9 R. 222	(40 per cent.)
Willis Long.....	4 R. 576	
John Lowry.....	4 R. 577	
James Lowery.....	4 R. 577	
Morgan Layton.....	4 R. 576	
Thos. W. Russell.....	4 R. 584	
Samuel Roller.....	4 R. 584	
Eliz. Richardson.....	4 R. 583	
666 Thos. H. Robbins.....	4 R. 584	
John Sours	4 R. 587	
Jacob Stover.....	4 R. 588	
Annie M. Smith.....	9 R. 238	
Leyton A. Tinney	4 R. 590	
James M. Thompson.....	4 R. 589	
H. Walter.....	4 R. 591	
Samuel H. Wampler.....	4 R. 591	
M. K. Abbot.....	2 R. 181	Va.
Rich. Anderson	2 R. 182	(40 per cent.)
Sam'l A. Beckham.....	4 R. 558	
Jesse L. Bryant.....	2 R. 187	
Silas Baxley	2 R. 186	
Oliver Bartley	2 R. 83	
Solomon Beery.....	2 R. 184	
John R. Buchanan	2 R. 187	
Elias Brinbaker.....	2 R. 187	
Benj. Bowman.....	2 R. 186	
Wm. E. Carhart.....	2 R. 188	
Wm. E. Carhart.....	6 R. 241	
Samuel Clive	1 R. 46	
B. F. Childry	1 R. 45	
Zath. F. Colbreath.....	4 R. 561	
Michael Colwell.....	3 R. 383	(40 per cent.)
Joseph Chit.....	1 R. 45	
Francis F. Curtis.....	4 R. 564	
Peter Clark.....	2 R. 189	
Jacob B. Calwell	2 R. 188	(40 per cent.)
A. Conwell.....	4 R. 563	(40 per cent.)
Morgan Coxen	4 R. 563	
Peter Erlinger	2 R. 192	
667 John Engleman.....	2 R. 192	(40 per cent.)
John W. Fletcher	4 R. 567	
John B. Ferguson	2 R. 194	

Noah Funkhouser.....	2 R. 194	
Samuel Petzer.....	2 R. 194	
Noah C. Wenger	4 R. 591	Va.
Robert Water.....	4 R. 591	
Curtis Yates	4 R. 592	
Sarah Ambrose	2 R. 182	
Amelia A. Griffith.....	4 R. 569	
Benton H. Goodloe	2 R. 197	
Craven J. King	3 R. 395	
Sarah Allen.....	9 R. 208	
Chas. T. Weston.....	5 R. 123	
Henry Fitzhugh	2 R. 194	(40 per cent.)
Nancy H. Bean	2 R. 184	
Abraham Eichy.....	4 R. 566	
John Forshil.....	2 R. 195	
John Baker.....	9 R. 151	S. C.
Lucy Breeden.....	7 R. 113	
Pleas-nt Baker.....	9 R. 59	
Patrick Brady	3 R. 355	
Thos. Bridgman.....	2 R. 150	
John Cantter	7 R. 113	
Martin Canfield.....	3 R. 355	
Ballord D. Dean.....	9 R. 160	
Joel L. Easterling	2 R. 151	
Pat H. F. Carrgain	2 R. 151	
John G. Grant	2 R. 151	
Daniel Goldfinch.....	4 R. 522	
P. C. Hamer.....	2 R. 152	
668 Rich. Jordan.....	3 R. 356	
Leondas Lowry	9 R. 163	(40 per cent.)
Mary C. Loadholtz	6 R. 207	
R. S. Lipsey.....	8 R. 264	
May O'Caine.....	9 R. 163	
Eliz. Slinghton.....	4 R. 525	
Herbert Smith.....	2 R. 154	
Phil P. B. Schwaz.....	2 R. 153	(33½ per cent.)
John Sluttry.....	9 R. 165	
Jaboch N. Townsend.....	9 R. 165	
M. W. Varning.....	1 R. 35	
Mary Welch	7 R. 117	
Julia C. Watson.....	7 R. 117	
Martha Knowles	6 R. 207	
Edward H. Allston.....	9 R. 158	
Thorogood Stubs.....	3 R. 358	
Jas. L. Roane	6 R. 208	S. C.
L. G. Alnet	2 R. 106	Miss.
John T. Bell.....	2 R. 107	
Wm. M. Bowles	7 R. 86	
Martha Blanton.....	5 R. 61-	

Zach Belve	5 R. 60	
D. N. Bowder	2 R. 109	
Tenor Bradboy.....	6 R. 178	
Henry Badon	7 R. 85	
Wm. S. Bunch.....	7 R. 87	Texas
Jeff Burnett	2 R. 109	
John A. Browning.....	2 R. 109	
Chis. Buntine.....	4 R.	
Hattie Black (now Ladd).....	9 R. 122	
Martha Crane.....	4 R. 486	
Sarah Coyle	9 R. 124	
669 Rowena Clark.....	9 R. 125	
Drury Couche.....	7 R. 89	
May Deen	7 R. 69	
Phil. Davis	7 R. 89	
Georgie A. Doyle.....	9 R. 177	
E. A. Dunn.....	9 R. 137	
James T. Dumgoale	9 R. 126	
Rchd. Harding	5 R. 66	
Ann Hunt.....	10 R. 277	
Jas. A. Huston.....	3 R. 302	
Samuel Herd	8 R. 242	
May A. Harriss	4 R. 489	
Edward Jack	9 R. 131	
H. M. Kerr.....	9 R. 86	
Harriet Langston.....	10 R. 272	Miss.
Jas. H. Lamb.....	2 R. 116	
Jas. N. Mahan.....	7 R. 96	
Jadah McKinney.....	2 R. 117	
Susan S. Merrill.....	6 R. 118	
Jas. Morrison	7 R. 97	
John McArthur	8 R. 245	
John F. McAlphine.....	8 R. 245	
Catherine Moseley.....	6 R. 188	
Samuel A. Miller.....	3 R. 308	
Joseph H. Martin	9 R. 134	
J. H. Maury.....	9 R. 135	
John McFarlan (I doubt this) .....	.....	(40 per cent.)
Wiley Nabor.....	9 R. 136	
Thos. Nanney.....	5 R. 71	
Drury Robertson	8 R. 248	
Thos. Ryan.....	4 R. 498	
Ann M. Ragsdale.....	9 R. 138	
670 Isaac Raymond	7 R. 99	
Thos. Shelby.....	5 R. 72	
Rob't Trover.....	3 R. 318	
Wm. Taliafero	3 R. 318	
Volkming, F. W.....	4 R. 501	
Wm. Rodenek.....		

Aulonet Wash	9 R. 143	(40 per cent.)
Chis Weil	6 R. 196	
John White	3 R. 321	(40 per cent.)
Rich. H. Willett.....	6 R. 196	
Joseph A. Whealberby	3 R. 320	
Wm. H. Whittaker	9 R. 143	Miss.
John W. James	3 R. 340	(40 per cent.)
Albert & Mary E. Jones.....	2 R. 116	
Andrew Kremer.....	7 R. 93	
Chas. Krammer.....	10 R. 272	
Thos. Kidd.....	5 R. 68	
E. J. Leigh	2 R. 116	
Wm. T. Lamb.....	8 R. 244	
Alex. K. Leonard	9 R. 133	(33½ per cent.)
Harding Patterson.....	4 R. 495	
M. L. Pol.....	7 R. 98	
Jacob Prebles	4 R. 495	
J. A. Parker	9 R. 137	
Jacob Surratt	7 R. 101	
Joseph C. Spright.....	5 R. 74	
Dr. John Young.....	7 R. 103	(40 per cent.)
Georgia C. Greer.....	3 R. 29	
John Ech		
May J. Dunn	6 R. 182	
Edwin O. Dunn	6 R. 69	
671 Roderick Williams.....		
David Brown		
Francis Bobi.....	6 R. 151	Fla.
F. P. Ferrira.....	9 R. 54	
John A. Pellicer.....	9 R. 55	
Andrew J. Pellicer.....	9 R. 55	
Horatio Woodward	4 R. 557	Texas (40 per cent.)
Rich Butler	9 R. 60	Ga.
Aso Broswell.....	9 R. 59	
Gadock C. Baker	9 R. 57	
John H. Boag.....	9 R. 59	
Margaret Bloodworth	9 R. 59	
Eliz. Bough.....	9 R. 73	
Susan Carrico.....	9 R. 61	
John Cox	9 R. 64	
Josiah Chambers.....	1 R. 19	
Thos. Clements.....	1 R. 19	
S. H. Campbell.....	9 R. 60	
Jason Cloud	9 R. 62	
James Carder	9 R. 60	
Susan Davis	9 R. 65	
Thos. Dye.....	9 R. 66	
John Davidson.....	9 R. 64	
Jane Edgar.....	2 R. 66	

Jas. E. Elan	9 R. 67	
John Ficker	3 R. 259	
Rebecca D. Fulton.....	9 R. 69	
Henry Fields	9 R. 86	(33½ per cent.)
Bulenger Graveley.....	9 R. 70	
Wm. Goddard.....	9 R. 70	
Peter Lynch	3 R. 267	
672 Patrick Lynch.....	8 R. 213	
John McKinnie.....	8 R. 214	
Simon L. Morton	9 R. 84	
John Vale.....	3 R. 277	(33½ per cent.)
Tilmon Nebbett.....	9 R. 84	
Thos. W. Quartermann.....	9 R. 87	Ga.
Martha Prince..	3 R. 274	
Geo. F. Pounder.....	4 R. 470	
Wm. Rutherford.....	9 R. 89	
Nicholas Rawlins.....	9 R. 87	
Soloman Sheftolt.....	7 R. 66	
Abraham Sheftolt.....	5 R. 47	
Christian Ubele.....	9 R. 94	
M. D. D. Vaughn.....	2 R. 103	
E. B. D. Vaughn.....	2 R. 101	
Allen J. Veal.....	9 R. 94	
Loury Williams.....	7 R. 72	
Thos. J. Nash.....	9 R. 95	
Wm. R. Wellborn.....	9 R. 96	
Eliza Weigh (now Walker).....	9 R. 98	
Larkins Witcher.....	2 R. 163	
— Von Waldon.....	9 R. 94	
Martin Wendelker.....	2 R. 102	
William C. Ballte.....	1 R. 18	Ga. (40 per cent.)
Wm. H. Castlen.....	.....	" " "
Eliza Castlen.....	.....	" " "
Zachariah H. Elliott.....	10 R. 351	" " "
Hiram Howe	10 R. 551	" " "
Jas. Hugalley.....	.....	" " "
Benj. Huggard.....	6 R. 38	" " "
Fielding F. Matthews.....	1 R. 23	" " "
673 Owen L. Woodard.....	10 R. 350	(40 per cent.)
Gabriel Parks.....	5 R. 45	" " "
Wm. H. Parker.....	2 R. 97	" " "
Benj. F. Reeves.....	6 R. 164	" " "
Jackson Rush.....	1 R. 19	" " "
Pinkering Parson.....	10 R. 350	" " "
Jas. M. Middlebrook.....	1 R. 23	" " "
Thos. G. Verdine.....	10 R. 353	" " "
May Wellaker.....	1 R. 28	" " "
Wm. B. Trice.....	5 R. 49	" " "
Jas. Trice.....	5 R. 49	" " "

Alois Stafford.....	8 R. 223	"	"	"
John W. Stallings.....	10 R. 350	"	"	"
Levi N. Middlebrook.....	10 R. 353	"	"	"
Jordan Lyon.....	5 R. 42	"	"	"
Wilkins W. Jackson.....	10 R. 350	"	"	"
Matthew T. Farley.....	10 R. 350	"	"	"
Andrew W. Stafford.....	1 R. 27	"	"	"
Early Cleveland.....	5 R. 25	"	"	"
Abraham M. Weaver.....	.....	"	"	"
Wm. H. Willis.....	.....	"	"	"
Andrew J. Howard.....	.....	Ga.	(40 per cent.)	
Jas. L. Landon .....	.....	"	"	"
Wm. R. Howe.....	.....	"	"	"
Filmore P. Powell .....	.....	"	"	"
Andrew Zellner.....	.....	"	"	"
Allen W. Fambro. ....	.....	"	"	"
G. W. Bane.....	4 R. 593	W.	Va.	
Moses Baylor.....	4 R. 593			
Thos. Brown.....	2 R. 408			
674 Isaac V. Burns.....	3 R. 408			
John Cook.....	4 R. 593			
David Coleman.....	4 R. 593			
Geo. W. Cockrell.....	4 R. 593			
Phil Gordon.....	3 R. 408			
John L. Roberts.....	4 R. 595			
George Shaw.....	4 R. 409			
Geo. W. Spotts.....	4 R. 595			
David B. Johnson	9 R. 11	Ala.		
Laura A. Welkins	9 R. 23			
W. F. Hurst.....	9 R. 11			
Mrs. H. M. Jones.....	2 R. 116			

675

Memorandum.

Manila jacket No. 1 and contents are missing from the files.
 This jacket and its contents relate to the claim of — —.

676 COMPLAINANT'S EXHIBIT No. 2, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF HENRY T. CATE.

Endorsement on manila jacket.

3 R. 235.	Henry T. Cate.
	\$1625.00.
	Fayetteville, Washington Co.,
	5 dist. Ark.
	(2 to 26.)
	A. & G.
	Eq. # 20802.
	Cummings vs. Moyers.
	" Exhibits 2 to 26."
	A. H. Galt, ex'r.
	(2.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, attorney at law, 1810 K street, N. W. Washington, D. C.	(Seal.) (Stamp.)
	Hon. Sam'l Peel.
Claim \$1625.00 3 D R P 235	

Henry T. Cate, Fayetteville, Ark. Feb'y 28/86.—Rec'd returned. P/A F/A &c. Petition executed. Washington Co. Return papers.	
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Fee Agreement.

This is to certify that I, Henry T. Cate, Fayetteville, Washington Co., State of Arkansas, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim (rejected by the late Claims Commissioners, Washington, D. C.) *claim* against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 25th day of February 1886.

HENRY T. CATE.

Witnesses:

J. H. VAN HOOSE.
J. D. WILSON.

678

Power of Attorney.

Know all men by these presents, that I, Henry T. Cate of Fayetteville in the State of Arkansas have made, constituted and appointed and by the- presents do make, constitute and appoint Geo. B. Edmonds, of Washington, D. C., my true and lawful attorney, irrevocable, for me and in my name, place and stead, hereby annulling all former powers of attorney or authorizations whatever in the premises, to prosecute my claim against the United States Government for property taken and used by the U. S. Army during the late war, which claim was disallowed by the late Commissioner of Claims, and to furnish any further evidence that may be procured, and necessary, giving and granting to my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises; as fully to all intent- and purposes as I might or could do if personally present at the doing thereof; with full power of substitution and revocation, hereby ratifying and confirming all my said attorney or his substitute may or shall do, or cause to be done by virtue hereof.

In witness whereof I have hereunto set my hand and seal, this 25th day of February, 1886.

HENRY T. CATE.

In presence of—

J. D. WILSON.
WHITING WASHINGTON.STATE OF ARKANSAS,
County of Washington, } ss:

679 On this 25th day of February 1886 personally came before me Henry T. Cate to me well known as the same person who executed the above power of attorney and acknowledged that he executed the same for the uses and purposes therein mentioned and set forth, and desired the same so certified which is hereby done.

Witness my hand and official seal at Fayetteville Arks. this day and year first above written.

[SEAL.]

JAMES H. VAN HOOSE,
Notary Public.

680

COMPLAINANT'S EXHIBIT No. 2.

Power of Attorney.

Filed July 30, 1888.

Power of Attorney.

Know all men by these presents, that I, Henry T. Cate, West Fork P. O., county of Washington in the State of Arkansas, have made, constituted and appointed, and by these presents, do make, constitute and appoint Gilbert Moyers, of Washington, D. C., my true and lawful attorney, irrevocable for me and in my name, place and stead, hereby annulling and revoking all former powers of attorney, or authorizations whatever in the premises, to prosecute my claim against the United States for stores and supplies taken by the Federal forces for their use during the late rebellion, and to prosecute the same before any of the departments of the Government, or before the Congress of the United States and before any officer, commissioner or convention specially authorized to take cognizance of said claim or through any diplomatic negotiations that may be deemed best for the interest of all parties concerned in this matter and to, from time to time, furnish any further evidence necessary, or that may be demanded, giving and granting to my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by
681 virtue hereof, and I do hereby authorize any certificates or drafts in payment thereof to be delivered or sent to my said attorney. And in consideration of my said attorney's services and expenses, I do hereby acknowledge a lien in favor of my said attorney on any draft or certificate that may be issued in payment of said claim.

In witness whereof, I hereunto set my hand and seal, this twenty-seventh day of January, eighteen hundred and eighty-eight.

HENRY T. CATE. [SEAL.]

J. F. MOYERS.
B. J. ELDER.

Signature of claimant must be attested by two witnesses.

STATE OF ARKANSAS,
County of Washington. }

Be it remembered that on this, the 27th day of January, 1888, before the undersigned, a notary public within and for the county and State aforesaid, personally appeared the within named Henry T. Cate with whom I am personally acquainted, and who acknowledged that he executed the foregoing power of attorney for the purposes therein contained.

In witness whereof, I have hereunto set my hand and seal, at office, the day and year last above mentioned.

[SEAL.]

JAMES H. VAN HOOSE,
Notary Public. [SEAL.]

Endorsed: Court of Claims. Power of attorney. No. 4931 Cong. Claim of Henry T. Cate, Washington, Ark. for — Filed by Gilbert Moyers, Washington, D. C. Filed July 30, 1888.

682 COMPLAINANT'S EXHIBIT No. 3, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF MRS. JANE A. SUTTON.

Endorsement on manila jacket.

Samuel I. Sutton.

4 R. 457.	\$6,010.00 / 100.
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Colt,
St. Francis Co., Ark.
Mrs. Jane A. Sutton, widow.

(3.)

Endorsement on inner blue envelope contained in jacket.

(Stamp.) (Seal.)

Geo. B. Edmonds,
Attorney at law,
1810 K street, N. W.
Washington, D. C.

Hon. Poindexter Dunn.

Claim \$6,010.00 / 100.
4 R. p. 454.

Mrs. Jane A. Sutton, widow, Sam'l I. Sutton, Colt,
St. Francis Co., Ark.
March 28 / 86.—Rec'd—returned P / A. F / A. &c. executed.
Return papers.

683

Fee Agreement.

This is to certify that I, Mrs. Jane A. Sutton, widow of Samuel I. Sutton, deceased, of Phillips county, State of Arkansas, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute the case of Samuel I. Sutton, deceased who had a claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 25th day of March, 1886.

JANE A. SUTTON.

Witnesses:

A. G. WILLIAMS.

MARTHA. H. WILLIAMS.

684

COMPLAINANT'S EXHIBIT No. 3.

COLT, ARKANSAS, *March 25th, 1885.*

Mr. Geo. B. Edmonds, Washington, D. C.

SIR: Your favor of the 20th inst. with petition & is to hand and noted. I was not aware that my claim had ever been before the Commissioners of Claims and rejected, so I do not know when it was disallowed therefore I cannot fill the petition but will sign it and you can fill it out from the papers on file. My husband's name was Samuell, Imily Sutton, I fill the papers as far as I know, your fees are large but I hope you will be successful in pressing the claim before the commissioners. Please let me know how you progress with the claim after a while and you will oblige yours respectfully,

MRS. JANE A. SUTTON.

N. B.—My home & post office is Colt, St. Francis county, Ark.

685 COLT, ST. FRANCIS COUNTY, ARKS., *March 16th, 1886.*

Mr. Geo. B. Edmonds, Washington, D. C.

SIR: Your favor of the 9th inst. is just to hand having been directed to my husband, deceased who died near Helena, Ark. in 1873 and I am the only representative. My children being all dead also, I thank you kindly for your offer to take charge of my claim. The war left us in quite limited means and I am not able to pay you anything to prosecute my claim but am willing to give you one third of what you can recover of my claim I have been told by prominent gentlemen that my claim was one of the best proven up

that they had seen and only needed some one to see to it for me. In your favor you did not say what you would require out of the claim if collected but I hope you will think my offer a good one as I know of several here who had their claims collected for less, did you find the papers on file all proper & right. My husband had receipts of Federal officers for various amounts of things taken by them & Mr. E. Wheeler had the claims who lived in Little Rock but done nothing but file them that I am aware of. Judge John S. Horner of Helena, Arks. probably can give you some information in refference to the matter, also a Mr. Dorsey Rice of St. Paul, Minn. a near neighbor & a Union man during the war, if you require any more information in regard to the claim it may be possible I can give it to you, please thank Col'n Dunn for his kindness in my interest & oblige

Yours respectfully,

MRS. JANE A. SUTTON.

Mrs. Jane A. Sutton, widow of —— Sutton. Colt, St. Francis Co. Ark. Rec'd. 3/20/86. 3/R 247 \$1,340.00 4 R 454 6,010.-00/100 March 20/86. Wrote enclosing P/a F/a &c.

686 COMPLAINANT'S EXHIBIT No. 4, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF RICHARD BUTLER.

Endorsement on manila jacket.

Richard Butler.

9 R. 60.

Savannah,

1 dist.

\$412.00.

Chatham Co.,

Ga.

(4.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,
attorney at law,

(Stamp.) (Seal.)

1810 K street, N. W.,
Washington, D. C.

Claim \$412.00.

9 R. p. 60.

Richard Butler,

Savannah, Ga.

Feby 11/86.—Rec'd returned
P/A F/A Sent back blank petition for signature.

Chatham Co.

Thos. M. Norwood,
1 dist.

687

Fee Agreement.

This is to certify that I, Richard Butler, of Savannah in the State of Georgia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 8th day of February 1886.

RICHARD his
x mark BUTLER.

Witnesses:

MR. WILLIAM MOERELL.
JOHN G. BUTLER.

688 COMPLAINANT'S EXHIBIT No. 5, CONSISTING OF JACKET AND
ITS CONTENTS IN RE CLAIM OF JOHN P. DAVIDSON.

Endorsement on manila jacket.

John P. Davidson,

9 R. 64 \$3,260.00

Rome,
Floyd Co. Ga.

7 dist.

(5.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,
Attorney-at-law,
1810 K street, N. W.,
Washington, D. C.

(Seal.) (Stamp.)

Claim \$3,260.00

Claim \$8,200.00
9th report p. 64.

**John P. Davidson,
Rome, Ga.**

Feb'y 13 / 86—rec'd—returned.

P/A F/A &c. executed.

Floyd.

689

Fee Agreement.

This is to certify that I, John P. Davidson of Rome, in the State of Georgia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 11th day of February 1886.

JOHN P. DAVIDSON.

Witnesses:

CHAS. D. MORRIS.
A. W. CYA. [SEAL]

690

Power of Attorney.

Know all men by these presents, that I, John P. Davidson of Rome, Floyd Co. in the State of Georgia, have made, constituted and appointed, and by these presents do make, constitute and appoint Richard McAllister, Jr., Washington, D. C., my true and lawful attorney, irrevocable, for me and in my name, place and stead, hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises, to prosecute my claim No. 3206 for me before the Southern Claim-Commission or any other tribunals or departments of the United States Government and to receive and receipt for any warrant or draft that may be issued in settlement thereof, and to, from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do, if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or h- substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof, I hereunto set my hand and seal, this 18th day of April, eighteen hundred and seventy-seven.

J. P. DAVIDSON. [SEAL.]

Two witnesses who can write:

I. W. PROCTOR.
H. C. JOHNSON.

691 STATE OF GEORGIA, }
 County of Floyd, } ss:

Be it known, that on this 18th day of April in the year eighteen hundred and seventy-7, before me, the undersigned, a U. S. commissioner in and for said county and State, personally appeared John P. Davidson to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first fully read over to h- and the contents thereof duly explained, acknowledged the same to be h- act and deed, and that I have no interest present or prospective in the claim.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

THOS. J. PERRY,

U. S. Commissioner.

[SEAL.]

If not acknowledged before an officer having an official seal, his official character must be attested by the certificate of the clerk of a court of record of the proper county, under his seal of office, which certificate must be so attached as that the imprint of the seal may appear on this paper. No revenue stamp required.

Endorsed: Power of attorney. No. 3206. Claim of John P. Davidson, Floyd Co., Geo., for —.(Stamp: Commissioners of claims April 21, 1877. Act March 3, 1871.) Filed by B. McAllister, Jr., atty for claimant, Washington, D. C.

Power of Attorney.

Know all men by these presents, that I, John P. Davidson, of Rome, Floyd county, in the State of Georgia, have made, constituted and appointed, and by these presents do make, constitute and appoint Peter M. Shibley, my true and lawful attorney, irrevocable, for me and in my name, place and stead, hereby annulling and revoking the power of attorney given to Richard McAllister, Jr., and confirming the power of attorney given to Peter M. Sheibley, March 27th, 1874. The said power of attorney given to the said Sheibley in view of the decease of St. John B. L. Skinner and also recognizing the said Sheibley as the correspondent and attorney of said Skinner.

I hereby further authorize that the draft to be issued for my claim No. 3206 be given to my said attorney Peter M. Sheibley.

I furthermore agree to from time to time, furnish any further evidence necessary or that may be demanded, giving and granting to my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do, if personally present at the doing thereof,

with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof, I hereunto set my hand and seal, this 30th day of July, eighteen hundred and seventy-seven.

J. P. DAVIDSON. [SEAL.]

Two witnesses who can write.

CHAS. J. WARNER.

J. M. SPILLOCK.

693 STATE OF GEORGIA, } ss:
County of Floyd, }

Be it known, that on this 3rd, day of August in the year eighteen hundred and seventy-seven before me, the undersigned, a clerk of the superior court in and for said county and State, personally appeared J. P. Davidson, to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first fully read over to him and the contents thereof duly explained, acknowledged the same to be his act and deed, and that I have no interest present or prospective in the claim.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

[SEAL.]

A. E. ROSS, Cl'k S. C. F. C.

If not acknowledged before an officer having an official seal, his official character must be attested by the certificate of the clerk of a court of record of the proper county, under his seal of office, which certificate must be so attached as that the imprint of the seal may appear on this paper. No revenue stamp required.

Endorsed: Power of attorney. No. 3206. Claim of John P. Davidson, Rome, Ga. for quarter master & commissary stores. (Stamp: Commissioner of claims Mar. 6. 1878. Act March 3, 1871.) Filed, by P. M. Sheibley, Rome, Ga. M'ch 6 / 78 Att'y notified.

694

Filed February 16, 1889.

Power of Attorney.

Know all men by these presents, that I, John P. Davidson of Floyd county in the State of Georgia have made, constituted and appointed, and by these presents do make, constitute and appoint Peter M. Sheibley my true and lawful attorney for me, and in my name, place and stead, to prosecute my claim against the United

States Government for quartermaster and commissary stores, now pending before the commissioners of claims and filed, No. 3206, by St. John B. L. Skinner, June 27, 1871, purposes aforesaid in view of the decease of St. J. B. L. Skinner, the att'y of record, I do hereby grant unto my said attorney full power and authority to do and perform all and every act whatsoever and requisite necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said attorney shall lawfully do or cause to be done by virtue hereof, hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises.

In witness whereof, I have hereunto set my hand and seal the — day of March, in the year of our Lord one thousand eight hundred and seventy four.

J. P. DAVIDSON. [SEAL.]

Two witnesses:

W. M. GRAY.
H. J. JOHNSON.

695 COUNTY OF FLOYD, }
State of Georgia, } ss:

Personally appeared before me the subscriber a notary public for said State and county the above-named Jno. P. Davidson to me well known, and acknowledged the foregoing letter of attorney to be his free and voluntary act and deed for the purposes therein set forth.

Given under my hand on the 27th day of March, 1874, at Rome, Ga.

THOS. J. PERRY,
[SEAL.] Notary Public.

Endorsed: Power of attorney from John P. Davidson, Rome, Ga. to P. M. Sheibley. Quarter master & commissary stores.

696

ROME, GA., March 3, 1878.

Hon. A. O. Aldis, president claims com., Washington, D. C.

SIR: Enclosed find powers of attorneys given me by John P. Davidson, dated respectively March 27, 1874 & July 30, 1877.

I was the correspondent of nearly all cases filed before you by Gen. St. J. B. L. Skinner from this county of Floyd, hence since his decease and that of his counsel George S. Parker, I claim the right to control them. Therefore, I now submit claim No. 3206, John P. Davidson, Floyd County, Ga., to your consideration.

Respectfully,

P. M. SHEIBLEY.

697 Forsyth & Hoskinson, attorneys at law, 77½ Broad street.

ROME, GA., July 2, 1886.

Geo. B. Edmonds, Esq., Washington, D. C.

DEAR SIR: Your circular letter received, I am willing for you to take charge of my claim, and prosecute the same for me.

If necessary to execute papers giving any further authority, send them to me.

Let us agree however in advance the compensation you are to receive I am not in condition to expend any money on the matter and prefer that you take part of the recovery, for your fees. I am willing to allow what is usual in such cases.

Yours very truly,

JOHN P. DAVIDSON.

Endorsed: John P. Davidson, Rome, Ga. Rec'd 2/4 '86 9 R.
74 \$3,260.00 Feb'y 6/86 Wrote enclosing P/A F/A &c.

698 Forsyth & Hoskinson, attorneys at law, 77½ Broad street.

ROME, GA., May 29, 1886.

Mr. Geo. B. Edmonds, att'y at law, Washington, D. C.

DEAR SIR: I sent you power of att'y as requested in Feb'y last, have never heard from you, please let me know if you received it, and if anything has been done with my claim; I would be glad to know as near as you can say when the claim is likely to be passed upon, and what in your opinion the chances are for recovery.

Yours very truly,

J. P. DAVIDSON.

Endorsed: May 31 / 86. Wrote stating that I hoped to be able to write him that his claim was again in court & enclose him a petition to the court for execution.

699 COMPLAINANT'S EXHIBIT No. 6, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF CHRISTIAN UBELE.

Endorsement on manila jacket.

Christian Ubele,		
9 R. 94	Savannah, Ga.	\$1,290.00 / 100.
Chatham Co.,		
5 dist.		

(6.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,	(Seal.) (Stamp.)
Attorney at law,	
1810 K street, N. W.,	Thos. M. Norwood,
Washington, D. C.	1 dist.

Claim \$1,290.

9 R. p. 94	Christian Ubele,
	Savannah, Ga.

Feb'y 28 / 86. Rec'd—returned
P/A F/A &c. petition executed.
Chatham Co.
Return papers.

Fee Agreement.

This is to certify that I, Christian Ubele of Savannah, in the State of Georgia have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 26th day of February 1886.

[SEAL.]

CHRISTIAN UBELE.

Witnesses :

L. B. ENDRES.
M. F. MOLINA,
J. P., C. C., Ga.

701

COMPLAINANT'S EXHIBIT No. 6.

SAVANNAH, GA., Feb. 15th, 1886.

DEAR SIR: I received your kind letter, and I want to let you now that I want to Brush the case if you take it on hand.

Money I have not got, but if you gain the case which is a just one you can take your fee of it I can bring some of the best citizens for witness as you want.

Write me as soon as possible.

Respectfully your

CHRISTIANS UBELE.

Endorsed: Christian Ubele, Savannah, Ga. Rec'd 2/186. 9/R.
94 \$1,290.00 Feb'y 24/86. Wrote enclosing P/A F/A &c. Good.

702 COMPLAINANT'S EXHIBIT No. 7, CONSISTING OF JACKET AND
CONTENTS IN RE CLAIM OF WILLIAM R. WELLBORN.

Endorsement on manila jacket.

Wm. R. Wellborn, 9 R. 96	\$565.00 / 100
Madison Morgan, Co., Ga. 8 dist.	

(7.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, Attorney-at-law, 1810 K street, N. W. Washington, D. C.	(Seal.) (Stamp.) Seabom (Reese 8 dist.)
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Claim \$565.00
9th. R. p. 96.
Wm. R. Wellborn, Madison, Ga.
Feb'y 24/86—Rec'd—returned
P/A F/A & petition execution,
Morgan Co.
Return papers.

703

Fee Agreement.

This is to certify that I, Wm. R. Wellborn, of Madison in the State of Georgia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 22nd. day of February, 1886.

[SEAL.]

W. R. WELLBORN.

Witnesses:

W. A. ALMAND.

C. W. BALDWIN,

Clerk Superior Court, Morgan Co., Ga.

704

COMPLAINANT'S EXHIBIT No. 7.

MADISON, MORGAN Co., Oct. Feb. 10, 1886.

Mr. Geo. B. Edmonds.

DEAR SIR: Having received yours of the 2, i hasten to reply I can only say do you as think best for me as I am a poor and needy man I suppose you are acquainted with the facts of my claims as you have examined them. Take the case and colect my claim if you can pay yourself for services rendered if you obtain or colect the claim; remit the remainder to me

Yours truly,

W. R. WELLBORN.

P. S.—If you wish anything more concerning my claim let me hear from you i will inform you.

Endorsed: Wm. R. Wellborn, Madison, Ga. Rec'd 2/12/86.
9 R. 96 \$565.00 Feb'y 15/86. Wrote enclosing P/A F/A &c.

705

MADISON, GA., May 19/86.

Mr. Geo. B. Edmonds.

DEAR SIR: Having given you power to prosecute my case I would like very much to hear from you. I have writen several letters to you and have never received an answer, as I would like to hear about my claim; what success you have had; and to save further investigation you will please answer at once.

Yours resp't.

WM. R. WELLBORN,

Madison, Ga.

Endorsed: Wm. R. Wellborn, Madison, Ga. Rec'd 5/24/86.
Wrote May 29/86 that as soon as anything of interest transpires will write him & we will have to be patient.

706 COMPLAINANT'S EXHIBIT No. 8, CONSISTING OF JACKET AND
CONTENTS IN RE CLAIM OF JASPER GALL.

Endorsement on manila jacket.

Jasper Gall,
9 R. 104 \$880.
N.Y.

New Iberia
Iberia parish, La.

(8.)

Endorsement on inner blue envelope contained in jacket.

(Stamp.) (Seal.)

Geo. B. Edmonds,

Attorney at law,

1810 K street, N. W.

Washington, D. C.

Hon. Edward J. Gay.

Claim 880

9 R. p. 104.

Jasper Gall,
New Iberia,
Iberia par. La.

April 19 / 86 Rec'd returned P / A F / A &c. executed.
Return papers.

707

Fee Agreement.

This is to certify that I, Jasper Gall, of Iberia parish in the State of Louisiana have engaged Geo. B. Edmonds of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

JASPER GALL.

Subscribed this 16th day of April 1886.

A. J. WAKEFIELD,
Dist. Clerk & Ex-officio Notary Public.

Witnesses:

CHAS. A. JUDICE.
L. A. PELLUM.

44-1361A

Power of Attorney.

Know all men by these presents, that I, Jasper Gall, of Iberia parish, in the State of Louisiana have made, constituted and appointed, and by the- presents do make, constitute and appoint Geo. B. Edmonds, of Washington, D. C., my true and lawful attorney, irrevocable, for me and in my name, place and stead, hereby annulling all former powers of attorney or authorizations whatever in the premises, to prosecute my claim against the United States Government for property taken and used by the U. S. Army during the late war, which claim was disallowed by the late commissioners of claims in the year 1879, and to furnish any further evidence that may be procured, and necessary, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof; with full power of substitution and revocation, hereby ratifying and confirming all my said attorney, or his substitute may or shall do, or cause to be done by virtue hereof.

In witness whereof I have hereunto set my hand and seal this 16th day of April, 1886.

JASPER GALL.

A. J. WAKEFIELD,

[SEAL.]

District Clerk and Ex-officio Notary Public.

In presence of—

CHAS. A. JUDICE.

L. A. PELLUM.

NEW IBERIA, March 3d, 1886.

To Geo. B. Edmonds, Esq., Washington, D. C.

D'R SIR: Yours Feb'y came to hand today and now hasten to answer. You can take charge of the claim I have provided you take your fee out of what you collect. I do not recollect how much the amount of my claim but it was a verry reasonable one for the amount of damage I sustained. You may prove if you wish, any reference of my conduct during that unfortunate war. I can refer you to Doct. A. Duperier of this place who is well acquainted with me and my position during the war and the whole time.

I remain very respectfully yours, JASPER GALL.

Endorsed: Jasper Gall, New Iberia, Iberia parish La. Rec'd 3/7/86. 9 R. 104 \$880. March 13/86 wrote endorsing P/A F/A &c. Apr. 10/86 return of papers asked. G.

710 COMPLAINANT'S EXHIBIT No. 9, CONSISTING OF JACKET AND
CONTENTS IN RE CLAIM OF PAGE BRABOY.

Endorsement on manila jacket.

Tenor Braboy, 6 R. 178	\$4,528.00
Rocky Springs, Hines Co. Miss.	
Page Braboy, son 7 dist.	(9.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, Attorney at law, 1810 K street, N. W. Washington, D. C.	(Seal.) (Stamp.)
	Hon. E. Barksdale.

Claim \$4,528

6 # R. p. 178.

Page Braboy for his father Tenor Braboy, dec'd.

Rocky Springs,
Hines Co. Miss.

May 8/86 rec'd. Returned P/A F/A &c. executed.

Return papers.

711

Fee Agreement.

This is to certify that I, Page Braboy, son & heir of Tenor Braboy, deceased, formerly of Clairborn county, Mississippi have engaged Geo. B. Edmonds of Washington, D. C., as my attorney to prosecute the case of Tenor Braboy deceased, who had a claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 4th. day of May, 1886.

PAGE BRABOY.

Witnesses:

WILLIAM M. ALEXANDER.
W. W. ALEXANDER.

712 COMPLAINANT'S EXHIBIT No. 10, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF MARY J. DUNN.

Endorsement on manila jacket.

Mary J. Dunn,
9 R. 182 \$1,980.00 / 100
Tupelo, Lee Co. Miss. J. W. Thomas, executor. 1 dist.
Cong. No. 1723. (10.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, (Seal.) (Stamp.)
Attorney at law,
1810 K street, N. W.,
Washington, D. C. Hon. Jno. Mallen.
Claim \$1,980.
6 R. p. 182. J. W. Thomas, ex't'r.
Mary J. Dunn,
May 10 / 86, rec'd. Tupelo, Lee Co.
Returned P / A F / A executed. Miss.
Return papers.

713 TUPELO, Miss., April 12th, 1886.

Mr. G. B. Edmonds.

DEAR SIR: Your letter of April 3rd to hand, and contents noted. In reply my mother has been dead for nearly five years. If you think you can do anything for the heirs of course they would like to have something for our lost and destroyed property. But don't want to be run to any expense for nothing, you can see what you can do with the claims, and advise me.

Respectfully,

J. W. THOMAS,
Exect. of M. J. Dunn Estate.

Endorsed: J. W. Thomas, ex'r of Mary J. Dunn—Tupelo, Lee Co. Miss. Rec'd 4 / 15 / 86. 9 R. 182 \$1,980.00 G. April 30 / 86 Wrote enclosing P / A F / A &c.

714 COMPLAINANT'S EXHIBIT No. 11, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF JOHN EHS.

Endorsement on manila jacket.

John Ehs,
Jackson, Hinds Co. Miss.
J. M. H. Martin, correspondent.
7 dist.

715

COMPLAINANT'S EXHIBIT No. 11.

Power of Attorney.

Know all men by these presents, that I, John Ehs, a resident of the city of Jackson, of the county of Hinds in the State of Mississippi, have made, constituted and appointed, and by these presents, do make, constitute and appoint George B. Edmonds of Washington city, D. C., my true and lawful attorney, irrevocable for me and in my name place and stead, hereby annulling and revoking all former powers of attorney or authorizations whatever in the premises, to prosecute his claim for supplies taken by the U. S. Army during the late war, which is now pending before the Court of Claims and to, from time to time, furnish any further evidence necessary or that be demanded, giving and granting to my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do, if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof, I hereunto set my hand and seal, this 14th day of October, eighteen hundred and eighty-six.

JOHN ^{his} x EHS. [SEAL.]
mark.

Two witnesses who can write:

J. M. H. MARTIN.
MAGGIE EHS.

716 STATE OF MISSISSIPPI, } ss:
County of Hinds, }

Be it known, that on this 14 day of October in the year eighteen hundred and eighty six, before me, the undersigned a clerk of the circuit court in and for said county and State, personally appeared John Ehs to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first fully read over to him and the contents thereof duly explained, acknowledged the same to be his act and deed, and that I have no interest present or prospective in the claim.

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year last above written.

[SEAL.]

W. N. POTTER, Clerk,
By W. J. BROWN, JR., D. C.

If not acknowledged before an officer having an official seal, his official character must be attested by the certificate of the clerk of a court of record of the proper county, under his seal of office, which certificate must be so attached as that the imprint of the seal may appear on this paper. No revenue stamp required.

717 Office of the New Mississippian, a representative newspaper of Mississippi.

JACKSON, Miss., Feb. 12th, 1887.

Geo. B. Edmonds, Washington, D. C.

DEAR SIR: Nearly one year ago I sent you power of att'y &c. in my old war claim the claim for tobacco taken by U. S. Army & rejected by So. Claims Comn. since when I have not heard from it or you. Not even an acknowledgment of the receipt of said papers.

Will you please inform me of the present condition of said claim? Whether or not any progress has been made in its prosecution? &c. And oblige—Hoping to hear from you soon, I remain,

Yours truly,

J. M. H. MARTIN.

P. S.—Find enclosed, petition & power of att'y of Mr. John Ehs. (pronounced Ace) which he requests me to forward.

718

Memorandum.

Jacket No. 12 and contents are missing from the files.
These relate to claim of — — —.

719 COMPLAINANT'S EXHIBIT No. 13, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF MRS. ANNA HUNT.

Endorsement on manila jacket.

Mrs. Anna Hunt,

10 R. 272

\$51,940.00 / 100

Rodney, Jefferson Co.,
Miss.

(Correspondence with H. E. Newton.)
7 dist.

(13.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,

Attorney at law,

1810 K street, N. W.

Washington, D. C.

(Seal.) (Stamp.)

Hon. E. Barksdale.

Claim \$51,940.

10 R. p. 272

(Correspondence with H. E. Newton)

Mrs. Anna Hunt,

Rodney, Jefferson Co. Miss.

June 5/86—Rec'd. Returned P/A F/A &c. executed. Return papers.

720

Fee Agreement.

This is to certify that I, Mrs. Anna Hunt, of Jefferson county, Mississippi have engaged Geo. B. Edmonds of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agreed to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 1st. day of June, 1886.

ANNA HUNT.

Witnesses:

O. H. McGINTY.
R. HARRISON.

721

WASHINGTON, D. C., Sept. 8th, 1879.

Mrs. Anna Hunt, Huntley, Miss.

DEAR MADAM: Your letter of inquiry of the 30th. ult. received, and I hasten to reply. I am glad, after long, long delay to tell you that affidavits of which you speak, that of Dr. Coleman, relative to the death of your son, and of Harwood in denial, &c. came to hand, and were at once utilized in the make up of the case, which *since*, I have fully briefed and submitted, I see by reference to my docket, that Dr. C.'s affidavit was received on the 7th. and Harwood's on the 10 of August, and on the 21st of the same month my brief was filed, & the case submitted for the final decision of the commissioners. They will be in session again in a few weeks; but, we shall not know what their decision is until early in Dec. next, after they make their report to Congress.

The case was very fairly made out, but not so well as it *should* have been from the material with which to do it. The witnesses generally agreed in their statements as to the taking of the property, but differed in some respects as to its location on which plantation of the *three*, which it was alleged in the petitions, it was on, at the time the U. S. forces took it.

But, withal, I look in *confidence* for a favorable result. I sincerely think your claim *ought* to be allowed, and all I can do to accomplish that result *shall* be done, and with the—

Highest respect, I am truly yours,

H. H. WILLARD.

722

COMPLAINANT'S EXHIBIT No. 13.

"HUNTLEY," May 7th, 1886.
(Near Rodney, Miss.)

DEAR SIR: Your circular letter of 30th. inst. to Mrs. Anna Hunt is received. She requests me to reply to it.

In case the claim referred to should be given you to prosecute it must be with the distinct understanding that no money will be supplied for that purpose by any of the parties here who have an interest in same.

You must state beforehand what your percentage as charges would be on the am't recovered.

Are you connected in any way with the parties in whose hands the claims was previously put?

It is not meant by this letter to give authority to prosecute the claim.

Mrs. Hunt has now living two children, male and female, the latter being my wife.

Very truly y'rs,

A. E. NEWTON.

To G. B. Edmonds, Esq., Washington, D. C.

P. S.—You can address Mrs. Hunt (or myself at Rodney, Miss.)

Endorsed: Mrs. Anna Hunt by A. E. Newton. Rodney, Jefferson Co. Miss. Rec'd 5/11/86. 10 R. 272 \$51,940, or G. May 22/86, wrote, enclosing P/A F/A &c.

723

NEAR RODNEY, MISS., June 1st, 1886.

DEAR SIR: Mrs. Hunt has concluded to turn the matter of the claim over to you, and forward necessary papers for the purpose signed before proper officer &c. &c.

Her impression is that probably the previous testimony did not state the place or places from which the property was taken and that this may have militated against her suit. If this be so, and you think it material, the information can be furnished, if you will give list of property &c.

V'y truly y'rs,

A. E. NEWTON.

To G. B. Edmonds, Esq., Washington, D. C.

724

EXHIBIT H. A. C. No. 4.

HUNTLEY, Sep. 29th, '86.

Mr. G. B. Edmonds:

The delay in answering your letter has been on account of the absence of my son—As I wanted to get his advice about some matters concerning the claim. He says that Messrs. Adam & Speed of Vicksburg have all the papers which contain the necessary information and duly sworn to. The amount of property taken—its value—the names of parties who know of taking of the property & of those to prove the loyalty of my husband. Mr. Willard of Washington may be able to give you some assistance. If this does not prove satisfactory write again.

With good wishes, I am
Truly,

ANNA HUNT.

Address Mrs. Geo. Hunt, Rodney, Miss.

725 COMPLAINANT'S EXHIBIT No. 14, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF HATTIE E. LADD.

Endorsement on manila jacket.

Hattie E. Ladd, (formerly Hattie E. Black).
9 R. 122 \$2,445.00 / 100.
Oakland, Yallabusha Co., Miss.
4 dist.

(14.)

Endorsement on inner blue envelope contained in jacket.

(Seal.) (Stamp.)

Geo. B. Edmonds,
Attorney at law,
1810 K street N. W.,
Washington, D. C. Hon. F. G. Barry.

Claim \$2,445.
9 R. p. 122.

Mrs. H. E. Ladd formerly
" Hattie E. Black, Oakland, Miss.
Yallabusha Co.

May 1 / '86.—Rec'd returned P/A F/A &c. executed.
Return papers.

45—1361A

726

Fee Agreement.

This is to certify that I, Mrs. Hattie E. Ladd, formerly Mrs. Hattie E. Black, Yallabusha county, Mississippi have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 28th day of April, 1886.

HATTIE E. LADD.

Witnesses:

W. K. BLACK.
THOMAS LADD.

727

Power of Attorney.

Filed May 1, 1891, Court of Claims.

Know all men by these presents, that I, Hattie E. Ladd, formerly Hattie E. Black of Yallabusha county, in the State of Mississippi have (torn) constituted and appointed, and by the- presents do make, constitute and appoint Geo. B. Edmonds, of Washington, D. C., my true and lawful attorney, irrevocable, for me and in my name, place and stead, hereby annulling all former powers of attorney or authorizations whatever in the premises, to prosecute my claim against the United States Government for property taken and used by the U. S. Army during the late war, which claim was disallowed by the late Commissioners of Claims in the year 1879 and to furnish any further evidence that may be procured, and necessary, giving and granting to my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intent- and purposes as I might or could do if personally present at the doing thereof; with full power of substitution and revocation, hereby ratifying and confirming all my said attorney or his substitute may or shall do, or cause to be done by virtue hereof.

In witness whereof I have hereunto set my hand and seal, this 28th day of April, 1886.

HATTIE E. LADD.

In presence of—

W. K. BLACK.
THOS. LADD.

728

Claim of Hattie E. Ladd.

Business confidential.

George B. Edmonds (late law officer, U. S. Land Office), 1810 K street N. W.

WASHINGTON, D. C., Jan. 21, 1886.

DEAR SIR: Having had occasion to examine some of the claims rejected by the late Southern Claims Commission, I conclude that many were rejected wrongfully. Having undertaken to prosecute some of these cases anew, I suggest that yours be included.

I do not promise absolute success, but I think there is such good reason to hope for it, that I am willing to make the trial. I think I have exceptional advantages in knowing about these cases, and alike facilities for the successful prosecution of the same.

You will, perhaps not wish to expend money upon my faith on the success of your case, if so; I am willing to prosecute it upon the understanding that if I do not recover I shall have no compensation.

Please advise me at once in the enclosed envelope relative to the matter.

Respectfully yours,

GEO. B. EDMONDS.

Thinking you might wish references, I submit by permission the following:

Hon. Frank B. Conger, postmaster, Washington, D. C., also the president of the Board of Commissioners, of District of Columbia.

—over—

729 DEAR SIR: In accordance with the circular on opposite side, and with the understanding that I am to be put to no additional expense, and that all the papers have been made out and are where you can get possession of them, for I do not know now where I can find the witnesses. I agree to give you possession or full control of the case, you are to deduct your fee from what you make by the prosecution or no fee.

Yours &c.,

MRS. H. T. LADD,

Formerly Mrs. A. J. Black. Miss Hattie Keith.

Endorsed: Mrs. H. T. Ladd, formerly Mrs. Hattie E. Black Oakland. Yallabusha Co. Miss. Rec'd 4/24/86. 9 R. 122 \$2,445.00 G. Some doubts about the property being hers. April 25/86 wrote enclosing P/A F/A &c.

730 COMPLAINANT'S EXHIBIT No. 15, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF J. H. MAURY.

Endorsement on manila jacket.

J. H. Maury,	
9 R. 135.	\$3,460.
Port Gibson,	
Clairborn Co.,	
Miss.	
Mrs. E. M. Harding,	
Daughter.	
7 dist.	

(15.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,	
Attorney at law,	
1018 K street N. W.,	Hon. E. Barksdale.
Washington, D. C.	

Claim \$3,460.

9 R., p. 135.

Mrs. E. M. Harding daughter of James H. Maury, dec'd.
Port Gibson, Clairborn Co., Miss.

April 24 /86. Rec'd—returned P / A F / A, &c., executed.

731

Fee Agreement.

This is to certify that I, Mrs. E. M. Harding, daughter & heir of J. H. Maury, deceased, of Clairborn county, Mississippi have engaged Geo. B. Edmonds of Washington, D. C., as my attorney to prosecute the case of J. H. Maury, deceased, claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim. It is agreed and understood I am not to be at any expense herein.

Subscribed this 20th. day of April, 1886.

MRS. E. M. HARDING.

Witnesses:

J. M. HARDING.
S. R. BERTRUM.

732

PORT GIBSON, April 9th, 1886.

Mr. Geo. B. Edmonds:

My father J. H. Maury is dead—I am one of his heirs, and am willing for you to proceed, in the collection of his Government claim, provided, it will not cost me anything.

Please write and let me know your terms.

Respectfully,

MRS. E. M. HARDING,
Daughter of J. H. Maury, Dec'd.

\$3,460.

733 COMPLAINANT'S EXHIBIT NO. 16, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF WILSON WILLIAMS.

Endorsement on manila jacket.

Wilson Williams, adm'r of Roderick Williams,
3 R.

La Fayette Co.,

Miss.

2 dist.

(16.)

Endorsement on inner blue envelope contained in jacket.

(Stamp.) (Seal.)

Geo. B. Edmonds,
Attorney at law,
Corcoran building,
Washington, D. C.Roderick Williams, deceased,
By Nelson Williams, his adm'r.La Fayette Co.,
Miss.

734

Fee Agreement.

This is to certify that I, Wilson Williams, administrator of Roderick Williams deceased, of La Fayette Co., Mississippi have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute the case of the late Roderick Williams, deceased, who had a claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 16th day of October, 1886.

W. WILLIAMS.

Witnesses:

JNO. F. BROWN.

735 COMPLAINANT'S EXHIBIT No. 17, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF D. S. DELOATCH.

Endorsement on manila jacket.

Dorsey S. Deloatch,
4 R. 506. \$2,955.00.
Jackson,
Northampton Co., N. C.
W. R. Deloatch Son.

(17.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, (Seal.) (Stamp.)
Attorney at law,
1810 K street, N. W.,
Washington, D. C. James E. O'Hara, 2 dist.

Claim \$2,955.

4 R. p. 506.

W. R. Deloatch, son of Dorsey S. Deloatch,
Jackson, Northampton —, N. C.

March 9/86—Rec'd returned P/A F/A &c.
Northampton Co. N. C.

Return papers.

Fee Agreement.

This is to certify that I, W. R. Deloatch, a son of Dorsey S. Deloatch deceased, of Jackson, Northampton Co. North Carolina, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my case as son of Dorsey S. Deloatch deceased who has a claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 8th day of March 1886.

W. R. DELOATCH.

Witnesses:

J. A. BAXTON.
I. N. BAXTON.

737

Claim of Dorsey S. Deloatch.

JACKSON, N. C., Feb. 24, 1886.

W. R. Deloatch, dealer in family groceries, brandies, whiskies, wines, cigars, tobacco, &c.

Mr. Geo. B. Edmonds.

DEAR SIR: I received a letter from you directed to my father and I will state to you that he is dead, died about five years ago and you will please write me upon what terms or say what amount of the proceed- of what you can collect are you willing to take this case for in hand. Please write me by return mail.

Truly, &c.,

W. R. DELOATCH.

Endorsed: W. R. Deloatch for Dorsey & Deloatch, Jackson. Northampton Co. N. C. Rec'd 2/25/86. 4 R. 506 \$2,955.00 March 2/86. Wrote endorsing P/A F/A &c. He had take- benefit of Banks *mt* law, and the claim was rejected without passing on the question of loyalty.

738

JACKSON, N. C., April 24, 1886.

W. R. Deloatch, agent, dealer in family groceries, brandies, whiskies, wines, cigars, tobacco, &c.

Mr. Geo. B. Edmonds.

DEAR SIR: You will please let me hear from — in regards to the claim. I have given you represent for me & what is your opinion of it at this time as to whether it will be acted on this spring or not & how long do you think Congress will hold.

Truly, &c.,

W. R. DELOATCH, Ag't.

Endorsed: W. R. Deloatch, Jackson, N. C. Rec'd 4 / 25 / 86. Wants information. April 26 / 86 answered informing him just as soon as *in* court would advise him.

739 COMPLAINANT'S EXHIBIT No. 18, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF N. K. THORNTON.

Endorsement on manila jacket.

Nath'l K. Thornton	
4 R. 517	\$935.00 / 100
Newton Grove,	
Sampson Co. N. C.	
3 dist.	
(18.)	

Endorsement on inner blue envelope contained in jacket.

George B. Edmonds,	(Stamp.)	(Seal.)
Attorney at law,	Hon. W. J. Green.	
1810 K street, N. W.,		
Washington, D. C.		

Claim 935 4 # R. p. 517
 Nath'l K. Thornton,
 Newton Grove, Sampson Co., N. C.
 May 11 / 86 Rec'd—returned P/A F/A &c. executed.
 Return papers.

Fee Agreement

This is to certify that I, Nathaniel K. Thornton, of Sampson, county and State of North Carolina have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 3rd day of May, 1886.

NATHANIEL K. THORNTON.

Witnesses:

J. E. WEST.
 G. W. THORNTON.

MARCH 25TH, 1886.

Mr. Geo. B. Edmonds:

Your favorable letter came to hand March 24th, which pleased me to know that some one was kind enough to let me hear from my claim again. Sir, you seem to be willing to try to collect it, if you can make a successful collection of it, push it through and you shall

be liberally paid out of it for your trouble. Please let me hear from you occasionally.

Very respectfully,

N. K. THORNTON,
Newton Grove, Sampson Co., N. C.

Endorsed: Nathaniel K. Thornton. Newton Grove, Sampson Co.
N. C. Rec'd 3/27/86 4 R. 17 \$935.00 April 16/86 wrote enclos-
ing P/A F/A &c. G

742 NEWTON GROVE, N. C., May 4th, 1886.

Mr. Geo. B. Edmonds.

DEAR SIR: I am a man needy of all the means justly due me, and if you can favor me, by allowing yourself the $\frac{1}{3}$ rd of the amount collected it would be a great kindness of you towards me.

Respectfully,

N. K. THORNTON.

743 COMPLAINANT'S EXHIBIT No. 19, CONSISTING OF JACKET AND
CONTENTS IN RE CLAIM OF WM T FAUBER

Endorsement on manila jacket.

Wm. T. Fauber,
1 R. 47. \$400.00.
Arbor Hill,
Augusta Co.,
Va.

(19.)

Endorsement on inner yellow envelope contained in jacket.

Geo. B. Edmonds, Esq., (Seal.) (Stamp.)
Att'y at law,

1810 K street, N. W.
Washington, D. C. Hon. J. Rudolph Tucker.

Claim \$400.

1 R. p. 47.

Wm. T. Fauber,

Arbor Hill, Augusta Co., Va.

June 5/86.—Rec'd—returned P/A F/A &c. executed.

744 *Fees*

This is to certify, that I, Wm. T. Fauber, of Augusta county, Virginia have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government and in consideration of his professional services and expenses incurred

by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 3d day of June, 1886.

WILLIAM T. FAUBER.

Witnesses:

I. B. FANVER.
J. M. YATES.

745 COMPLAINANT'S EXHIBIT No. 20, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF HENRY FITZHUGH.

Endorsement on manila jacket.

Henry Fitzhugh.

2 R. 194. \$75,965 50 / 100.

Fredericksburg, Spottsylvania Co. Va.

Samuel Fitzhugh, administrator.

Cong. No. 1201.

(20.)

Endorsement on inner blue envelope contained in jacket.

(Stamp.) (Seal.)

Geo. B. Edmonds,

Little & Little att'ys to receive

Attorney at law,

20 per cent. of our fee.

1810 K street N. W.

Washington, D. C.

Claim \$75,965.50.

3 R. p. 194 Samuel Fitzhugh, admr. Henry Fitzhugh, dec'd. Fredericksburg, Va.

March 20 / 86.—Rec'd returned P / A F / A &c. executed. Spottsylvania Co.

(Return papers of claimant.)

Fee Agreement.

This is to certify that I, Samuel Fitzhugh, administrator of Henry Fitzhugh dec'd of Stafford county, Virginia have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute a case of said Henry Fitzhugh's estate for a claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty* per cent. of the amount which may be

* One fifth of which fee of fifty per ct. is to be paid to Little & Little, attorneys of Fredericksburg, Va.

collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 19th day of March, 1886.

SAM'L FITZHUGH,
Adm'r of Henry Fitzhugh, Dec'd.

Witnesses:

WM. A. LITTLE.
WM. A. LITTLE, JR.

747

Claim of Henry Fitzhugh.

FREDERICKSBURG, Jan. 30, 1886.

Mr. Geo. B. Edmonds.

DEAR SIR: I received a letter from you to my father Henry Fitzhugh in which you state that you would like to undertake to collect his claim against the Government. My father is dead and have been dead some two or three years and it is several of us and as I have the management of my father's affairs write to say we would like to take some steps to try to collect his claim against Government and if you have examined the records in Washington what do you think of the matter and what foundation you have to think that it is a good one. I have some of the papers here and was witness in the case and the rest of the papers are on file in Washington. We are not willing to spend any money on it but will give you a liberal percentage if you undertake the case therefore would like for you to examine the records and let me know what you think and then I will come to Washington to see you, but of course if you do not collect the claim you must not expect any pay. Hoping to hear from you at once—

Very respect.,

SAM'L FITZHUGH,
Fredericksburg, Va.

Endorsed: Daniel Fitzhugh, Fredericksburg, Va. Rec'd 1/31/86. 3 R. 194 \$75,965 50/100. Wrote him Feb'y 5/86 Spotsylvania Co. March 20/86. Rec'd all necessary papers properly executed by Sam'l Fitzhugh as adm'r. This conclusion has been reached after quite lengthy correspondence, consideration & the taking in as associate counsel Messrs. Little & Little Fredericksburg, agreeing to pay them one-fifth of our fee.

748

Little & Little, attorneys at law.

FREDERICKSBURG, V.A., Feb'y 22d, 1886.

Mr. Geo. B. Edmonds, att'y at law.

DEAR SIR: Mr. Sam'l Fitzhugh son of Henry Fitzhugh dec'd of Stafford City. &c., has sent to me for advice sundry letters &c. from

you, preparing to revive and prosecute the claim of his father H. Fitzhugh dec'd vs. U. S. Government for a claim ejected by U. S. claims com'rs.

We were counsel of said Henry with Hon. Joseph Logan in the prosecution of sd. claim and he was to receive 25% of the recovery —While you require 50% we are disposed to advise the parties to employ you & to aid you in the matter as far as we can. It will be necessary to have an adm'r on H. F.'s estate & to prosecute the claim in his name, we can arrange all this—we merely desire that you shall write as fully about the matter & let us hear what chance there is of your success in the matter. Advise us fully & confidentially about it & we think the thing can be arranged.

Very truly yours,

LITTLE & LITTLE.

Little & Little, attorneys at law.

FREDERICKSBURG, V.A., Feb'y 25th, 1886.

Geo. B. Edmonds, Esq.

DEAR SIR: Yours of the 23d was duly received & we have
749 had an interview with our client Mr. Sam'l Fitzhugh on the subject. We think he will agree to have the claim prosecuted, but he is very reluctant to pay $\frac{1}{2}$ of the recovery, as it is double the usual fee in such cases & as most of the work of collecting the testimony &c. is done & the case a strong one upon the record & papers now in the case,—for Logan was sanguine of success and but for his death we would doubtless have pushed along with others of less moment, which did succeed.

We do not think it safe to get authority to prosecute & an agreement for fees from one or two of the parties there are some 7 or 8 of them, & the others might object, after the work was done. The adm'r is the only party whose authority & action will be legal & undisputed & we think it best for Sam Fitzhugh, the eldest son to qualify as adm'r & execute the proper papers. Fitzhugh thought that there were outstanding judgments at his father's death which might interfere with the result. But we were att'ys in all those judgdts. & informed him that they had all been assigned to his mother & they now belong to the family as his heirs at law.

If we can succeed in getting him as adm'r to agree to the fifty per cent. fee in the case, there should be some agreement between us to receive a share of this fee, as in no event can more than that amount be agreed upon for all of us—say ten per cent. for our firm and forty per cent. for you, in the matter. We know that we can aid you to that extent & attend to all that is required at this end of the line and perhaps by influencing parties in Congress personally. Let us hear from you & oblige,

Y'r's truly,

LITTLE & LITTLE.

750 If you agree with us forward the proper blank & we will attend to them promptly.

Endorsed: Little & Little, Fredericksburg, Va. Feb'y 26/86.
Wrote agreeing to proposition with suggestions. Rec'd 2/26/86.

751

FRED'G, VA., M'ch 3d. / 86.

Geo. B. Edmonds, Esq., att'y, &c.

DEAR SIR: Mr. Fitzhugh agrees to the arrangement made in your last letter. He will qualify as adm'r of H. F. [Fitzhugh]* on the 17th inst. at Stafford county court—the earliest day—and immediately thereafter the papers will be duly prepared & forwarded. You may consider the matter settled.

Very truly yours,

LITTLE & LITTLE.

Endorsed: Little & Little, Fredericksburg, Va. [March 20/86.
Wrote, inquiring the forwarding of the papers.]* Didn't send the letter.

In Stafford County Court, March Term, 1886.

On motion of Samuel Fitzhugh he is granted administration on his father Henry Fitzhugh, est., whereupon he made oath and with James Roach as security, who being justified as to his sufficiency entered into and acknowledged a bond in the penalty of one hundred dollars conditioned for the faithful discharge of his duties as such adm'r.

A copy

Test:

C. A. TACKETT, Cl'k.

752

FRED'G, VA., M'ch 19 / 86.

Geo. B. Edmonds, Esq., att'y, &c.

DEAR SIR: We have just rec'd and enclose you the order of qualification of Sam'l Fitzhugh as adm'r of Henry Fitzhugh, estate—and we have got him to sign & have filled up the blanks rec'd of you.—& trust now that you may be able to do something with the case—Please advise us of receipt & send us copy of the certificate for fees acknowledged &c. by you and oblige,

Yours truly,

LITTLE & LITTLE.

FREDERICKSBURG, VA., June 29 / 86.

Geo. B. Edmonds, Esq., att'y-at-law.

DEAR SIR: We wrote to Mr. Croxton as you suggested about the Fitzhugh case and we enclose his answer to you herein—

Our client the sheriff of Spotsylvania, adm'r of *James Mills*—informs us that the uncle of James Mills whose name was *Robert Mills* was scavenger for Washington city for many years, & died a wealthy man, leaving his est. to his widow for life with remainder to his

[* Words and figures enclosed in brackets erased with pencil in copy.]

heirs at law. He left no children—Robert Wills died some 5 years ago & his widow in the last 12 mos.

The adm'r of Jas. Mills thinks that he was entitled to a share of Rob't Mills est.—If you can get any information from your 753 records in Washington about this matter & there should turn out to be anything in it, we can make something out of it, look into it & oblige us.

Yours truly,

LITTLE & LITTLE.

Endorsed: Little & Little, Fredericksburg, Va. Rec'd July 1886. July /86 wrote that she was married to a man by the name of Cole.

Zea, Crawford & Company, general merchandise.

STRASBURG, V.A., Sept. 19th, 1887.

Mr. Geo. B. Edmonds:

Your letter to me and addressed to Mrs. M. E. Weston, Riverton, is at hand. You request the names persons who will swear to C. T. Weston's loyalty during the entire war.

You have Maj. I. R. Richards and Jas. Way Kendrick evidence taken when the case was up before I suppose, both of these men are still living, & Mr. David Hit of Front Royal lived with C. T. Weston during the war and I think can be of service to you the three gen'l's named all live at Front Royal—F. Royal is one & $\frac{1}{2}$ miles from Riverton the place where the mill was burned. I don't think you can arrange this business satisfactory by correspondence—and any day you will come to Front Royal and will let me know I will come down and render what service I can. Front Royal is 12 miles from here.

Very truly yours,

R. W. CRAWFORD.

Little & Little, attorneys at law.

FREDERICKSBURG, V.A., Oct. 6th, 1887.

Geo. B. Edmonds, Esq.

DEAR SIR: Neither Sam'l Fitzhugh nor I have found any further evidence in the case—I think you have it now in as good a shape as it is possible to get it, & you can go ahead with the argument. If I or any one can aid you in any way in the matter, advise us—& don't forget to let us know when anything occurs in the case.

Very truly yours,

WM. A. LITTLE.

Little & Little, attorneys at law.

FREDERICKSBURG, V.A., Dec. 29th, 1887.

Geo. B. Edmonds, Esq.

DEAR SIR: Yours rec'd. The ass't att'y gen'l will never prove the handwriting of Henry Fitzhugh to the vouchers named.

The deposition of Henry Fitzhugh & of his son-in-law Curtis, explain that matter fully—& show that it was all Curtis work without the knowledge & consent of Henry Fitzhugh—This indicates that they are “hard up” & getting weak about this case—We only regret any further delay in the case.

We think you saw them on the question of jurisdiction in the Fenlong case.

Very truly yours,

LITTLE & LITTLE.

755 COMPLAINANT'S EXHIBIT No. 21, CONSISTING OF JACKET AND
CONTENTS IN RE CLAIM OF JOHN R. HORNBAKER.

Endorsement on manila jacket.

John R. Hornbaker,
2 R. 200 \$550.00.
Bristoe,
Prince William Co., Va.
(8 dist.) (21.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,
Attorney at law,
1810 K street, N. W.,
Washington, D. C.
(Stamp.) (Seal.)
Jno. S. Berton, 8 dist.

Claim \$550. 2 R. p. 200.

John R. Hornbaker,
Bristoe, Va.

March 11 / 86, rec'd. Returned P / A F / A, &c., executed.
Prince William Co.
(Return papers.)

756

Fee Agreement.

This is to certify, that I, John R. Hornbaker, of Bristoe, State of Virginia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him

the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 10th. day of March, 1886.

J. R. HORNBAKER.

Witnesses:

E. L. HORNBAKER.

— — —

757

Claim of John R. Hornbaker.

"Milford mills;" J. R. Hornbaker, manufacturer of all grades of flour, meal, feed and all kinds of dressed lumber.

BRISTOE, V.A., 2/3, 1886.

Geo. B. Edmonds, Esq.

DEAR SIR: Your favor Jan. 21st received—and contents noted. In regard to any Government claim will say that I would like to get some one to look after it. My attorney that I had to attend to the matter wrote me to come down on a certain day when the claims were to come up and bring my wife along as they wanted a little more proof as to the taking of the flour; and at that time I was not well enough to go, and that was the way it came to be set aside, and the attorney died. I had employed and I have never looked after it since. In my claims I only brought in one item which was for 50 bbls. of flour @ \$10.00 per bbl. after they took it I had to pay \$15.00 per bbl. for my flour, I put in the claim for the flour because I felt the loss of it the worse. But that was not half the damage the army did me, they burned my fence and a tenant house that was occupied at the time, & also killed my stock to feed the army, but I can't say what part of the army did it, but I know that the U. S. Army did it. Would there be any chance to get anything for the last items mentioned and what per cent. would you want if you should collect my claims. Please let me hear from you soon & oblige.

Yours truly,

J. R. HORNBAKER.

758 COMPLAINANT'S EXHIBIT No. 22, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF THOMAS W. RUSSELL.

Endorsement on manila jacket.

Thomas W. Russell.

4 R. 584. \$1,007.80 / 100.

Berryville, Clark Co.,
Va. 7 dist.
(22.)

Endorsement on inner blue envelope contained in jacket.

George B. Edmonds,

(Seal.) (Stamp.)

Attorney at law,

1810 K street, N. W.

Washington, D. C.

Claim 1007.80.

4 R. p. 584

Thomas W. Russell,

Berryville, Clark Co., Va.

March 23 / 86.—Rec'd returned—P / A F / A &c. executed.

Return papers.

Chas. T. O'Farrall.

759

Fee Agreement.

This is to certify that I, Thomas W. Russell of Clark county and State of Virginia, have engaged Geo. B. Edmonds, of Washington, D. C. as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 20th. day of March 1886.

THOS. W. RUSSELL.

Witnesses:

WM. N. NELSON.
GEO. GLASS.

760

Claim of Thomas W. Russell.

BERRYVILLE, March 9th, 1886.

Mr. Edmond:-

I rec'd yours of the 4th ins. I am glad you have some hope you can make the claim against the Government which I sincerely hope you may—you wish me to say the — I am willing — give you if you are successful you may state your terms you take it on and pay yourself out of the proceeds if you should get it as I have been to so much cost already that I should not like to spend any more—if this proposal should please you you may send me a power of attorney and state in it your terms & I will sign & return to you which will make you safe for your trouble if you should gain it. I will just state to you that as to my loyalty if you will *seech* the offices in your city you will find I was appointed U. S. com'r as soon as the court was organized in our district and have conducted it to this date.

I am sir,

Yours truly,

T. W. RUSSELL.

Endorsed : Thomas W. Russell Berryville, Clark Co., Va. Rec'd 3/8/86 4 R. 584 \$1,007.80 Mar. 11/86 wrote enclosing P/A F/A &c.

761 COMPLAINANT'S EXHIBIT No. 23, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF MOSES BAYLOR.

Endorsement on Manila jacket.

Moses Baylor.

4 R. 593 \$2,458.00.

Middleway, Putnam Co.,
West Va.

(23.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds,
Attorney at law,

(Stamp.) (Seal.)

1810 K street, N. W.,
Washington, D. C.

Hon. Eustace Gibson.

Claim \$2,458.

4 R. p. 593 124.

Moses Baylor,

Middleway, W. Va.

March 12/86.—Rec'd returned P/A F/A &c. executed
Returned papers. Putnam Co.

762

Fee Agreement.

This is to certify that I, Moses Baylor of Middleway in the State of West Virginia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him, in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 11th day of March 1886.

MOSES BAYLOR.

Witnesses:

SAM'L L. MYERS.
JAMES W. LEAGUE.

763 COMPLAINANT'S EXHIBIT No. 24, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF JOSEPH L. ROBERTS.

Endorsement on manila jacket.

Joseph L. Roberts 4 R. 595 Leetown, Jefferson Co., West Va. 2 dist.	\$495 00 / 100
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(24.)

Endorsement on inner blue envelope contained in jacket.

(Seal.) (Stamp.)

Geo. B. Edmonds, Attorney at law, 1810 K street, N. W. Washington, D. C.	Wm. L. Wilson.
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Claim \$495.00 4 R. p. 595 Jos. L. Roberts, Leetown, Jefferson Co., W. Va. Feb'y 26 / 86—Rec'd. Returned P/A F/A &c. petition ex- ecution.	
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764

Fee Agreement.

This is to certify that I, Jos. L. Roberts, of Charlestown, in the State of West Virginia, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S.

Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 25th day of February 1886.

JOSEPH L. ROBERTS.

Witnesses:

GEORGE D. JOHNSON.
JOHN H. LINDSAY.

765 COMPLAINANT'S EXHIBIT No. 25, CONSISTING OF JACKET AND CONTENTS IN RE CLAIM OF GEORGE SHAW.

Endorsement on manila jacket.

George Shaw 4 R. 409	\$1,025.00 / 100.
Shepherdstown, Jefferson Co., West Virginia, 2 dist.	

(25.)

Endorsement on inner blue envelope contained in jacket.

Geo. B. Edmonds, Attorney at law, 1810 K street, N. W., Washington, D. C.	(Seal.) (Stamp.)
	Wm. L. Wilson.

Claim \$1,025.00.

4 R. p. 409

George Shaw,
Shepherdstown, W. Va.
Feb'y 19 / 86—Rec'd.—Returned P / A F / A &c. executed.
Jefferson Co.

This is to certify that I, George Shaw of Shepherdstown in the State of West Virginia have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the fee of fifty per cent. of the amount which may be col-

lected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 17th day of February 1886.

GEORGE SHAW.

Witnesses:

W. H. BALLINGER.
H. S. HARRISON.

767

Claim of George Shaw.

SHEPHERDSTOWN, W. VA., Feb. 4th, '86.

Mr. Edmonds, Washington.

DEAR SIR: I received yours in regard to my Government claim I have about 2,000 dollars in and I have got ownly 30 dollars. A man by the name of McKune got 30 dollars for me if you can get it I wish you would make an effort to do so I have spent a good deal of money on them so far a good deal more than I ever got out of it if you think there is any show for it you are at liberty to make the trial. Let me hear from you.

GEO. SHAW.

Endorsed: Mr. Shaw Shepherdstown, W. Va. Rec'd 2/5/68
4 R. 409 \$1,025.00 Feb'y 6/86 wrote enclosing P/A F/A &c.
Feb'y 18/86 wrote requesting return of papers.

SHEPHERDSTOWN, W. VA., Feb'y 17th, 1886.

Geo. B. Edmonds, att'y.

DEAR SIR: I enclose the power of attorney and other papers employing you as my attorney to represent my claim. I would like to hear from you as soon as convenient, what progress you are making, and what amount you think will be recovered.

Very respectfully yours,

GEORGE SHOW.

768

Memorandum.

Manila jacket No. 26 and contents are missing from the files.
This relates to claim of — —.

769

Fee Agreement.

This is to certify that I, Susan S. Merrill, of Lee county, Mississippi, have engaged Geo. B. Edmonds, of Washington, D. C., as my attorney to prosecute my claim against the U. S. Government, and in consideration of his professional services and expenses incurred by him in the prosecution of said claim, I agree to pay him the

fee of fifty per cent. of the amount which may be collected thereon, and said fee is hereby made a lien on any draft that may be issued in payment of said claim.

Subscribed this 20th day of April, 1886.

SUSAN S. MERRILL.

Witnesses:

W. W. STONE.

A. J. WEST.

Memorandum.

Exhibit G. M. is a letter from Edmonds to Moyers in relation to Susan Merrill claim; the same is not however, among our files.

770 Unsigned paper entitled—

Court of Claims of the U. S. A.

SUSAN S. MERRILL }
vs. } Cong. Case No. 1681.
THE UNITED STATES. }

In the above case there was a finding by the Court of Claims in favor of Susan S. Merrill for \$815.00 / 100 and at the last session of Congress there was an appropriation made, conditionally, to pay the claim, one half of which belongs to Susan S. Merrill of Lee Co., Miss., and the balance, by certain agreement for fees, belongs to myself and one Geo. B. Edmonds, of Washington, D. C., and the object of this writing is — sell, assign and set over to said Edmonds all my right and title to said Edmonds his heirs and assigns, and I hereby authorize said Edmonds or his assigns to erase my name as the attorney for said Merrill and have any name put as her attorney, and do everything hereafter as if they had been her attorney from the start.

Dated July — A. D. 1891.

_____,
Attorney for said Merrill.

771

Memoranda.

For Complainant's Exhibit in Rebuttal No. 1, see Complainant's Exhibit in Rebuttal No. 1, the same being letter from A. B. Richardson, superintendent of Government Hospital for Insane &c. to Davis & Tucker, on page 382 of original record.

For Complainant's Exhibit in Rebuttal No. 2, see Complainant's Exhibit in Rebuttal No. 2, the same being letter from superintendent of Soldiers' Home, Hampton, Virginia; to Davis & Tucker on page 383 of original record.

772

Memoranda.

For Exhibit H. A. C. No. 1, see Complainant's Exhibit H. S. C. No. 1., page 1 of these exhibits.

For Complainant's Exhibit in Rebuttal No. 3, see Complainant's Exhibit in Rebuttal No. 3, the same being a letter dated May 26, 1899 from Moyers to Cummings on page 384 of original record.

For Complainant's Exhibit in Rebuttal No. 4, see reference made thereto on page 385 of original record.

Exhibit C is not among the files, but reference is made to same on page 462 of original record.

773

Directions to Clerk for Preparation of Record.

Filed April 30, 1903.

In the Supreme Court of the District of Columbia :

H. S. CUMMINGS, Administrator, etc., }
vs. } Equity. No. 20802.
GILBERT MOYERS. }

To the clerk of the supreme court of the District of Columbia :

In the transcript of the record required for the purposes of the appeal heretofore taken by defendant from the decree of the court filed on February 5, 1903, you will please include the following portions of the record ; these being, as defendant is advised and believes, all that are necessary for full consideration and examination of the matters embraced in said appeal.

1. Bill of complaint, filed September 16, 1899.
2. Answer of defendant to bill of complaint, omitting affidavits attached, of other persons than defendant, filed September 20, 1899.
3. Defendant's motion for leave to amend answer, filed May 18, 1900. Order overruling said motion, filed the same day.
4. Defendant's motion for leave to amend answer, filed May 23, 1900, and amendment accordingly filed. Order of court allowing filing of supplemental answer, filed May 24, 1900.
5. Supplemental answer, filed May 26, 1900.
6. Motion to strike portions of supplemental answer, filed June 1, 1900, and order granting said motion, made the same day.
- 774 7. Joinder of issue on supplemental answer, filed June 5, 1900.
8. Decree referring cause to auditor, filed June 13, 1900.
9. Report of auditor, filed August 20, 1902.
10. Defendant's exception to report of auditor, filed September 19, 1902.

11. Cross bill offered by defendant, filed December 19, 1902.
12. Defendant's motion to open and remand report of auditor, filed December 11, 1902.
13. Depositions of John C. Scott and others, taken by Mason N. Richardson, examiner, (one package) with accompanying exhibits to deposition of defendant, some detached.
14. Depositions of Horace S. Cummings and others taken by Alexander H. Galt, examiner (one package).
15. Depositions of Edward A. Balloch and others, taken by J. Arthur Lynham and Mason N. Richardson, examiners, (one package).
16. Depositions of defendant and others taken before the auditor (one package), omitting introductory statement of auditor.
17. Decree, filed February 5, 1903.
18. Defendant's bond for appeal from above decree.
19. Stipulation etc., extending time for filing transcript for this appeal.

BENJ. CARTER,
Solicitors for Defendant.

Complainant's Designation of Record.

Filed May 7, 1903.

In the Supreme Court of the District of Columbia.

HORACE S. CUMMINGS, Administrator, etc., }
Complainant, }
vs. }
GILBERT MOYERS, Defendant & Appellant. } Equity. No. 20802.

To the clerk of the supreme court of the District of Columbia:

In addition to the parts of the transcript of the record in the above entitled cause heretofore designated by the defendant and appellant, which he, the said appellant, desires to be included in said transcript, the complainant and appellee hereby designates the following parts of the record and proceedings in said cause which he deems necessary and material for the appeal therein; and you are hereby directed to include the same in the transcript of the record.

1. All exhibits attached to the bill of complaint.
2. All affidavits and exhibits attached to the answer, except the affidavits of Joseph A. Blundon and James A. Cahill.
3. All exhibits attached to and referred to in the depositions of witnesses on behalf of the complainant, taken before the examiners in chancery in said cause.
4. Depositions of witnesses before auditor, filed February 3, 1903, for August 20, 1902, accompanying auditor's report filed August 20,

776 1902, including statement of auditor attached to such depositions, and all exhibits and documentary evidence offered and received during the taking of said testimony before the auditor.

5. Certified copies of papers from Treasury Department, filed March 15, 1900, relating to the claim of Susan Merrill, together with letter of transmittal from the Assistant Secretary of the Treasury.

6. Certified copies of papers from the Treasury Department, filed June 7, 1902, relating to the claim of John Ehs, together with letter of transmittal from the Assistant Secretary of the Treasury.

7. Joinder of issue on answer, such joinder having been filed September 26, 1899.

CHAS. COWLES TUCKER,
Solicitor for Complainant and Appellee.

Benjamin Carter, Esquire, attorney for said defendant and appellant:

Take notice that I have this — day of May, 1903, filed with the clerk of the said court a notice (of which the above is a copy) designating other parts of the record and proceedings in the above entitled cause which the complainant and appellee herein deems necessary and material for the appeal; and have instructed said clerk to include such other parts in the transcript of the record to be prepared by him.

CHAS. COWLES TUCKER,
Solicitor for Complainant and Appellee.

777 *Instructions to Copy Additional Papers in Transcript of Record.*

Filed December 31, 1903.

HORACE S. CUMMINGS, Administrator, }
Complainant, } vs.
vs.
GILBERT MOYERS, Defendant. } No. 20802. Eq.

To be copied and added to the transcript of the record.

1. Complainant's Exhibit H. S. C. No. 1, before examiner (p. p. 106-'7) being schedule of cases attached to partnership agreement.

2. Edmonds' jackets of claims mentioned in bill of complaint, together with contents of same (p. p. 106-'7) omitting the 4 or 5 jackets of claims mentioned in Moyers' amended answer, and which admittedly were collected by other attorneys. The jackets and contents to be copied are included in the bunch of jackets marked Complainants' Exhibits 1 to 26 both inclusive.

3. Complainant's Exhibit in Rebuttal Nos. 1 and 2, being letters from superintendent of Government Hospital for Insane and endorsement of Southern Branch of National Home for Disabled Volunteers, dated March 19th, 1900 on letter from Davis & Tucker. (I have not the page of the transcript of record.)

3. Exhibit G. M. June 3, 1901 being letter from Edmonds to Moyers relating to Susan Merrill case and fee agreement between Susan Merrill and Edmonds dated April 20th, 1886 and unsigned paper entitled "In the Court of Claims, Susan Merrill v. The United States" (p. 592).

4. H. A. C. No. 1 (p. 594).

5. Complainant's Exhibit in Rebuttal No. 3 letter dated 778 May 26, 1899 to Cummings from Moyers (I have not the page of transcript on which this exhibit is mentioned).

6. Complainant's Exhibit in Rebuttal No. 4, being Susan Merrill jacket and contents (ditto).

7. Exhibits C. (p. 462).

8. Exhibits H. A. C. No. 4, letter from Anna Hunt to Edmonds dated September 29th, 1896 (ditto).

9. Directions of defendant to clerk to prepare the record on appeal filed April 30th, 1902.

10. Complainant's designation of parts of record to be included in transcript filed May 27th, 1902.

Clerk will please copy foregoing to be added to record already sent to Court of Appeals in Cummings, ag't Moyers.

C. C. COLE,
Attorney for Defendants.

779 Endorsement on manila jacket of Gilbert Moyers.

No. —

Book A page 425.

John Ehs,
Jackson, Miss.

Before S. C. commissioner.

For \$—

From C 2

Filed.

Nov. 4/85 To go to Cong.

July 25/86 To Court of Claims.

" 28 " Am't p'd for ex.

June 15/87 Wrote to claimant.

Claimant testifies strongly to loyalty,—went to Vicksburg with Sherman's army; did not return until after the war. (The rest is not legible) disloyal.

Contents of Moyers' Jacket.

JACKSON, Nov. 3rd, 1885.

DEAR SIR: i write to you this few lines to let you that i hove Received you Letter few days ago And was glad to hear from you again the Last of My Property that i lost in the army i Lost ever thing that i had i am an old man and sick all the time and i cant attend to it i wish you would attend to it i would be ever much oblige to you

Oblige yours
My address:

JOHN EHS,
Jackson, Miss.

Endorsed: Nov. 30 / 85. *Ehs case.*

780 No. 1156. John Ehs Original claim in my hands. Edmonds' name does not appear on my docket.

781 *Letters of J. M. Harding to Gilbert Moyers.*

PORT GIBSON, MISS., June 5, 1890.

Gilbert Moyers, Esq., Washington, D. C.

MY DEAR SIR: You will remember having met me here when you visited this place to take testimony under the Bowman act in several claim cases *vs.* the Government. I am interested in the claim of my grandfather Judge James H. Maury which was one you had in hand.

Will you please inform me of the present status of that case, and your opinion of your chance to get it allowed?

Do you think the court will allow it, and that Congress will provide for its payment?

Please let me hear from you on the subject and oblige—

Yours truly,

J. M. HARDING.

782 PORT GIBSON, MISS., May 22, 1891.

Gilbert Moyers, Esq., Washington, D. C.

MY DEAR SIR: Yours of the 18th inst. rec'd. I remember receiving a letter from you several months ago but it did not indicate the character of the evidence needed.

I will at once proceed to look up evidence on the point mentioned and let you know with what success I meet.

Yours truly,

J. M. HARDING.

PORT GIBSON, MISS., May 22nd, 1893.

Gilbert Moyers, Esq., Washington, D. C.

MY DEAR SIR: Your recent postal card rec'd. I do not now know of any witness, whose testimony I can procure in the Richard Harding claim, but what would be simply *cumulative* of the testimony your Mr. Martin obtained in that claim during his recent visit to this place.

After writing you while Mr. Martin was here, I succeeded in getting the testimony of three witnesses, but fear it is not very strong. The fact is, at this late date witnesses are scarce having died or moved away.

There is only one contemporary of Richard Harding now
783 living in his old neighborhood, and his testimony was taken in the claim years ago.

As to the James H. Maury claim, I confidently expect to recover on the testimony taken last before A. K. Jones, chan. cl'k. If this claim is again disallowed, I will not take a third bite at the cherry.

Yours truly,

J. M. HARDING.

Don't forget to change the style of the James H. Maury claim from James A. Harding adm'r to James M. Harding adm't'r.

J. M. H.

PORT GIBSON, MISS., Dec. 27 / 95.

Gilbert Moyers, Esq., Washington, D. C.

MY DEAR SIR: In the Richard Harding claim vs. The U. S. in the Court of Claims, the testimony of J. W. Martin, witness for claimant, was taken yesterday before R. W. Magruder Ex. N. P. & has been mailed to the clerk of the Court of Claims at Washington.

This is all the testimony I can get in this claim.

I suggest that the legal fraternity who are interested in prosecuting similar claims from what I might call an "Eloquence trust" and combine your oratorical powers to argue the Court of Claims into adopting the rule in view of recent events, the President's Venezuelan message, Mr. Olney's note, the unanimous action of
784 both Houses of Congress in passing the commission resolution and the Christmas present of the Senate to ex-Confederates in removing *all* their disabilities and the spontaneous outburst of patriotism all over our country—to allow all of the claims for supplies received by the U. S. Army during the last war wherever the claim has been proved up, except in such cases where the Government has proved overt acts of disloyalty on the part of the original claimant, if any such there be.

We are one people now, and I don't like the idea of our courts making any distinction between her citizens.

I presume the record in this case shows the fact that Richard Harding departed this life in 1867 at the ripe old age of 86 years. so that during the late war he could not (and he did not) aid the Confederate cause.

Please let me know promptly what decision the court will make in this case and don't let the present session of Congress adjourn without paying me the James H. Maury claim that was allowed by the court.

Yours very truly,

J. W. HARDING.

PORT GIBSON, MISS., August 19, 1896.

Gilbert Moyers, Esq., Washington, D. C.

My DEAR SIR: Yours of the 14th inst. enclosing contract for my signature has been rec'd.

785 I, of course, expect to pay out fifty per cent. of the amount recovered on the J. H. Maury claim for attorneys' fees. I do not know what contract the deceased claimant may have made in this regard during his life time.

My first move in this case was through Geo. B. Edmonds, Esq., and I do not know what he might claim by way of fee.

I write to-day to the Secretary of the Treasury for information concerning liens that may be on file in his office in the Maury claim.

I will communicate with you later.

Fifty per cent. of the claim will go for attorneys fees.

Very truly yours,

J. M. HARDING.

786 Endorsement on manila jacket of Gilbert Moyers.

No. 4203 Cong.

E. 136.

Estate of Roderick Williams, dec'd.

Wilson Williams, adm'r, Lafayette Co. Miss.

Dec. 1873—\$1095.00.

Write Wilson Williams,

Taylor, Lafayette Co. Miss.

Oxford, Miss. Oct. 31 / 89.

Memorandum.

Wilson Williams,

Adm'r R. Williams, Taylor P. O.,

Lafayette Co. Miss.

Dec. 27 / 87. \$1095.—1873.

Pet. to Congress P / A & fee agreement for $\frac{1}{3}$ sent claimant, Dec. 29 / 87.

Jan'y 25 / 88.

Above rec'd & forwarded Col. M. at Washington, with this letter 1 / 25 / 88.

S.

787

Entries in Moyers Docket.

Tupelo, Miss.

SUSAN MERRILL, Lee Co., Miss., }
 v. } No. 1681. Cong.
 THE UNITED STATES. }

To the Court of Claims.

All papers at court.

M'ch	31/87.	Wrote Memphis for petition and P/A.
Ap'l	19	Petition and P/a & f/a to cl'm't, Tupelo, Miss.
June	24/87.	Appearance filed.
July	16/87.	Brief on loyalty made and sent Memphis with jacket.
Aug.	5/87.	Made 3 copies petition, 2 to Memphis and one to the Dep't Justice.
Sept.	22/87.	Depositions for cl'm't filed.
Nov.	21/87.	Power of attorney filed in court.
"	" " "	Jacket returned by G. M.
Dec.	4/87.	Petition sent W. W. Stone, Tupelo, Miss.
March	17/88.	Claimant's brief on loyalty filed.
April	23/88.	Defendant's brief on loyalty filed.
May	3/88.	Case submitted on question of loyalty.
"	7/88.	Court finds claimant loyal.
"	19/88.	Mailed petition to cl'm't for execution.
June	5/ "	Petition rec'd and filed, also mo. to extend time.
"	9/ "	Withdrawn to print.
July	9/ "	Petition and 25 copies refiled.
July	11/ "	Claimant's brief and request for findings filed.
Oct.	30/ "	Defendant's brief on merits filed.
Nov.	3/ "	Reply to defendant's brief on merits filed.
Dec.	20/ "	Argued and submitted.
"	24/ "	Court finds for claimant \$815.00.
Feb'y	27/89.	Motion for transmittal of findings to Congress filed.

788

Dec. 3, 1891. Certificate issued by Att'y General filed in Treasury Department.
 Jan'y 8, 1892. Draft mailed claimant on war, No. 2182.

Papers from Court of Claims in Susan Merrill Case.

Filed in Court of Claims.

1887.

- March 4th. Petition to Commissioner of Claims.
March 4th. Summary report of Commissioner of Claims—submitted to Congress December 4th, 1886.
March 4th. Proof taken by J. T. Moseley (special commissioner).
March 4th. Testimony of H. M. Haynie and Susan Merrill.
March 4th. Testimony taken before John T. Moseley, com.
March 4th. Report of D. Edwards, spec. agent (July 24, 1875) adverse to loyalty.
March 4th. Order of Committee of War Claims of Congress.
March 4th. Letter of Raitt & Francis to clerk of Commissioner of Claims asking for evidence and further time.
June 30th. Appearance by Gilbert Moyers.
Sept. 22nd. Depositions of R. E. Clark (for comp.) (Gilbert Moyers appeared as attorney).
Oct. 31st. General Traverse (Govt.).
Nov. 22nd. Power of attorney to Gilbert Moyers—executed November 16th, 1887.

1888.

- Mar. 17th. Brief on loyalty (claimants) (Gilbert Moyers appeared as attorney).
Apr. 21st. Def'd brief on loyalty.
May 7th. Court finds claimant loyal.
June 6th. Motion for extension of time to file petition by Gilbert Moyers, attorney.
June 6th. Original petition (Gilbert Moyers appeared as attorney).
June 11th. Brief on merits and request for finding of fact (Gilbert Moyers appeared as attorney).
Oct. 30th. Def's brief on merits, filed October 30, 1888.

789

- Nov. 3rd. Reply to def's brief on merits (Gilbert Moyers appeared as attorney).
Dec. 24th. Finding of facts by court—claimant entitled to \$815.00—stating Gilbert Moyers appeared for claimant Mar. 4th, 1888.

1889.

- Feb. 27th. Motion for transmittal of findings of fact to Speaker of House (Gilbert Moyers appeared as attorney).

1891.

- Aug. 24th. Motion to withdraw temporarily all papers.

[Endorsed:] No. 1361. Charles F. Consaul and Ida M. Moyers, administrators of Gilbert Moyers, deceased appellants vs. Horace S. Cummings, administrator of George B. Edmonds, deceased. Addition to record per stipulation of counsel. Court of Appeals, District of Columbia. Filed Mar. 23 1904 Henry W. Hodges, clerk.

790 In the Court of Appeals of the District of Columbia.

CHARLES F. CONSAUL ET AL., Administrators of Gilbert Moyers, Deceased, Appellants,
vs.
HORACE S. CUMMINGS, Administrator of George B. Edmonds, Deceased, Complainant.

} No. 1361.

Stipulation.

It is stipulated and agreed by and between the parties hereto, by their respective solicitors of record, that the contents of the following named exhibits which were part of the record of this cause in the court below, and which were omitted by the clerk of that court from the transcript of the record heretofore filed in this court, were substantially as follows, to wit:

1. Complainant's Exhibit, No. 27, to the testimony taken before the examiner in the court below, was a docket in the handwriting of George B. Edmonds, deceased, of the claims mentioned in the schedule of 385 claims, offered in evidence by the appellee below, and a few other claims not mentioned in said schedule, which schedule is claimed by him to have been attached to the partnership agreement of February 6, 1888, between George B. Edmonds, deceased, and Gilbert Moyers, deceased; said docket containing all of the claims except six mentioned in said schedule, and there are thirty in the docket not mentioned in said schedule, one page of said docket being generally devoted to each of said claims although in some instances two claims were entered on a page; and the entries concerning each claim, containing the name, post-office address, and in most instances the congressional district of each claimant and the amount of the claim and also the volume and page of the published reports of the commissioners of claims corresponding to the volume and page of said reports following the name of each of the claimants named on said schedule.

791 Said docket was found among the effects of said decedent, George B. Edmonds, after his death.

2. Complainant's Exhibit, No. 30, attached to the testimony taken before the examiner in the court below, consisted of a docket of seventy-eight (78) pages of the claims mentioned in said schedule, the entries of each claim being under the caption of the State in which each claimant resided. Said docket was also found among the effects of said decedent, George B. Edmonds, after his death.

3. Complainant's Exhibit, No. 29, attached to the testimony taken before the examiner in the court below, consisted of the index of all of said claims mentioned in said schedule, the entries in said index being in the handwriting of said decedent, George B. Edmonds; said index having been found among his effects after his death.

4. That during the taking of testimony before the auditor in this cause, under the reference ordered by the decree of the court below of June 13, 1900, the complainant offered in evidence, and the same were admitted in evidence, over the objection of counsel for Gilbert Moyers, deceased, several hundred envelopes or jackets and the contents thereof, which were found among the office effects of the said decedent, George B. Edmonds, after his death, relating to the claims mentioned in the schedule offered in evidence by the complainant, which schedule was claimed by him to have been attached to said partnership agreement; said jackets and their contents relating to claims other than those mentioned in the bill of complaint and Complainant's Exhibit No. 1 attached to his said bill of complaint. Each and every of said several hundred jackets contained and endorsement on its back in the handwriting of said decedent, George B. Edmonds, of the name of the claimant, the amount of the claim and other entries relating to correspondence with claimant, powers of attorney, etc., and contained a fee agreement purporting to have been executed by the claimant and a power of attorney from the claimant

to the said decedent to prosecute said claim, together with
792 letters purporting to have been written by the claimant, or

someone in his behalf, to the said George B. Edmonds, deceased, relating to the prosecution of said claim. All powers of attorney, fee contracts, and correspondence, contained in said several hundred jackets, and all the entered endorsed thereon, were dated anterior to the date of said partnership agreement of February 6, 1888, between the decedent, George B. Edmonds, and the decedent Gilbert Moyers. The names of the claimants on said several hundred envelopes or jackets, and on the envelopes or jackets relating to the claims mentioned in said bill of complaint and Complainant's Exhibit No. 1, attached thereto offered in evidence by the complainant in the court below, corresponded exactly with the names of the claimants contained in the schedule of claims offered in evidence by the complainant in the court below, and claimed by him to have been attached to said partnership agreement of February 6, 1888.

5. That in addition to the foregoing evidence, the complainant called upon the said Gilbert Moyers to produce, and he did produce, and the complainant offered and the same were received in evidence, the office papers of the defendant relating to all of the claims mentioned in the bill of complaint and the Complainant's Exhibit No. 1, attached thereto, and also the claim of Susan Merrill, said office papers consisting for the most part of correspondence between said defendant and said claimant. All of said correspondence, however, post-dated the date of the said partnership agreement of February 6, 1888, except that in the case of Susan Merrill, and there were not contained among said office papers any fee contract between said defendant and of said claimants, and no powers of attorney from any of said claimants to said defendant antedating said partnership agreement of February 8, 1888.

6. That complainant also called upon the defendant to produce, and the defendant did produce, and the same were offered and re-

793 received in evidence, his office dockets containing entries in all of the claims mentioned in the preceding paragraph, but none of said entries showed any action taken by the defendant in the matter of the prosecution of any of said claims prior to the date of said partnership agreement of February 6, 1888, except the Merrill case.

7. Complainant further offered in evidence in the court below, the records and papers of the lower court in lunacy proceedings in that court, known as equity No. 12,926, as appears on page 328, of the transcript of the record heretofore filed in this court. The offer by counsel of said records and papers correctly states their contents.

8. The defendant in the court below, produced before the auditor under the reference ordered by the decree of the lower court of June 13, 1900, a list of cases, which was marked "Exhibit B" and entitled, "List of Edmonds' cases," which contained the names of 225 cases, which he admitted he received from George B. Edmonds, deceased, and which were embraced in said partnership agreement of February 6, 1888. Said cases, as far as they went, corresponded with the cases named in the schedule of cases offered in evidence in the court below by the complainant and claimed by him to be the schedule or list referred to in said partnership agreement and attached thereto. At the same time and under the same reference, the said defendant produced, a list marked "Exhibit A," of cases marked "Cases on Edmonds' schedule, which belong to other attorneys or which were received by Moyers from them." The names of said last mentioned cases were also contained in said schedule, and said Exhibit A embraced — cases.

Either or any parties hereto shall be at liberty to produce or print any of the documentary evidence mentioned or referred to in this stipulation or contained in the record of the lower court in this case, in the hearing of this cause if the same shall be deemed material by him; and this stipulation shall not be deemed binding, in any of its terms, on any of the parties hereto, if it shall be at variance with any of said documentary evidence.

794 It is expressly understood and agreed that the parties by entering into this stipulation as to the contents of the exhibits and documentary evidence mentioned herein, do not admit that there were not other exhibits and documentary evidence offered and received in evidence in the court below material and necessary to the proper determination of this appeal.

It is further stipulated that a fragmentary paper in the case of Anna Hunt, which was produced by the deceased defendant, Gilbert Moyers, before the auditor in the hearing before him under the reference ordered by the decree of June 13th, 1900, and which is known as Exhibit —, which is impossible to print may be produced by either or any of the parties to this cause at any hearing thereof. March 23d, 1904.

CHARLES COWLES TUCKER,
Sol. for Complainant.
C. C. COLE, *Sol'r for Defendants.*

(Endorsed:) No. 1361. Charles F. Consaul and Ida M. Moyers, administrators of Gilbert Moyers, deceased, appellants, *vs.* Horace S. Cummings, administrator of George B. Edmonds, deceased. Stipulation of counsel. Court of Appeals, District of Columbia. Filed Mar. 23, 1904. Henry W. Hodges, clerk.

795 In the Court of Appeals of the District of Columbia.

CHARLES F. CONSAUL and IDA M. MOYERS, Administrators of the Estate of Gilbert Moyers, Deceased, *vs.* HORACE S. CUMMINGS, Administrator of the Estate of George B. Edmunds, Deceased. } No. 1361.

It is hereby stipulated by and between the solicitors of the respective parties to the above entitled cause that the following mentioned papers shall be omitted from the record now on file in the clerk's office of this court, and shall not be printed with the residue of said record, to wit:

Affidavits of E. N. Hill, J. C. Scott, pp. 20, 21, 22, inc.
Motion for appointment of receivers and accompanying papers pp. 39-46, inc.

Affidavit of Tucker pp. 49-50.
Answer of Moyers to application for receiver pp. 51-54, inc.
Reports of receivers and exhibits pp. 57-63, inc.
Report of receivers filed May 24, 1902, and accompanying papers, with order directing receivers, etc., also motion of complainant to enlarge said order—the supplemental report of receivers, and accompanying papers pp. 394-411, inc.

Petition of Barber to intervene—order allowing same pp. 637-642, inc.

Report of receivers filed May 14th, 1903, and accompanying affidavits and exhibits pp. 645-651, inc. March 24th, 1904.

CHARLES COWLES TUCKER,
Sol. for Complainant.
CHAS. C. COLE, *Sol. for Defendants.*

(Endorsed:) No. 1361. Charles F. Consaul *et al.*, appellants, *vs.* Horace S. Cummings, administrator. Stipulation as to printing record. Court of Appeals, District of Columbia. Filed Mar. 24, 1904. Henry W. Hodges, clerk.

Endorsed on cover: District of Columbia supreme court. No. 1361. Charles F. Consaul *et al.*, administrators, appellants, *vs.* Horace S. Cummings, administrator, &c. Court of Appeals, District of Columbia. Filed Sep. 30, 1903. Robert Willett, clerk.

JUN - 7 1904

*Nancy W. Hadaway,
Clerk.*

Court of Appeals, District of Columbia.

APRIL TERM, 1904.

No. 1361.

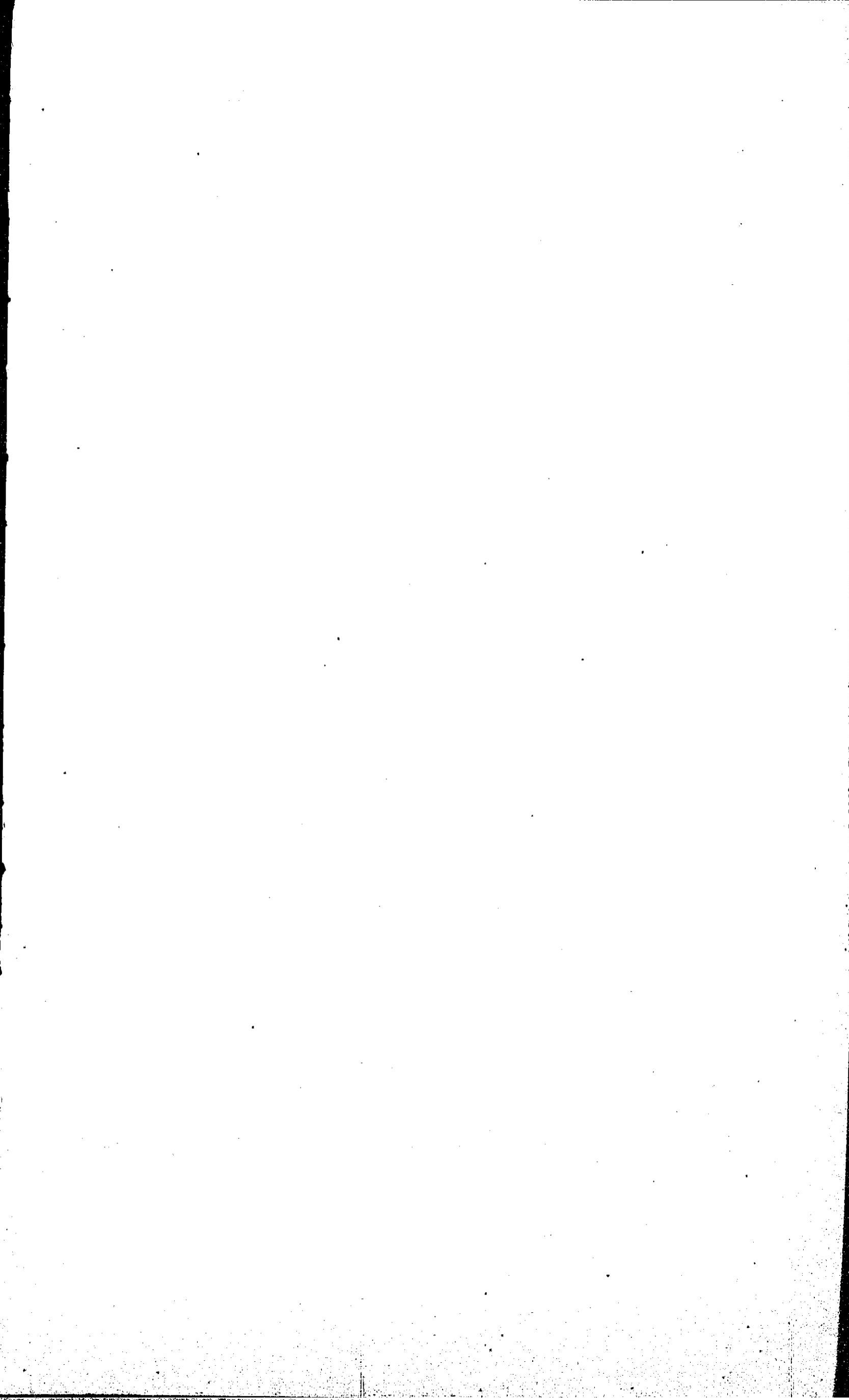
CHARLES F. CONSAUL AND IDA M. MOYERS, AD-
MINISTRATORS OF THE ESTATE OF GILBERT MOYERS,
DECEASED,

vs.

HORACE S. CUMMINGS, ADMINISTRATOR OF THE ESTATE
OF GEORGE B. EDMONDS, DECEASED.

BRIEF IN OPPOSITION TO APPELLANTS'
MOTION TO ENLARGE MANDATE.

CHAS. COWLES TUCKER,
For the Appellee.



Court of Appeals, District of Columbia.

APRIL TERM, 1904.

No. 1361.

CHARLES F. CONSAUL AND IDA M. MOYERS, AD-
MINISTRATORS OF THE ESTATE OF GILBERT MOYERS,
DECEASED,

vs.

HORACE S. CUMMINGS, ADMINISTRATOR OF THE ESTATE
OF GEORGE B. EDMONDS, DECEASED.

BRIEF IN OPPOSITION TO APPELLANTS'
MOTION TO ENLARGE MANDATE.

The appellants' motion is to modify and enlarge the decree of this court so as to (1) authorize the auditor to ascertain and report the expenses paid by Gilbert Moyers in the pending claims mentioned in these proceedings, as well as those disallowed or unsuccessful, and (2) also to authorize the auditor to take additional evidence and to make further report upon the question whether certain claims, mentioned in the motion, were included in the partnership agreement, and if he shall find that some or all of them were not so included, to restate the account clearly; the second part of

which motion is based upon certain alleged newly discovered evidence.

I.

So far as the second part of this motion is concerned, namely, that based upon alleged newly discovered evidence, as set forth in the affidavit of the appellant Ida M. Moyers, the appellee respectfully submits that as a matter of law and practice this court is without authority to consider it. What is sought here to be done by the appellants was attempted to be done by one of the unsuccessful parties, the appellees, in *Russell vs. Southard*, 12 How., 138. In that case a decree of the circuit court for the district of Kentucky was reversed and a certain conveyance set out in the transcript of the record was declared to be a mortgage, and the appellant was declared to be entitled to redeem the same. The mandate of the Supreme Court was that the decree of the lower court be reversed and the cause remanded to the lower court for further proceedings to be had therein in conformity to the opinion of that court.

After the opinion of the court was pronounced, a motion was made on behalf of the appellees for a rehearing and to remand the cause to the circuit court for further preparation and proof, upon the ground that new and material evidence had been discovered since the case was heard and decided in that court. Sundry affidavits were filed showing the nature of the evidence which was said to have been discovered.

The opinion of the court upon this motion was delivered by Mr. Chief Justice TANEY:

"The decree of the circuit court, in this case, was reversed during the present term, and a decree entered in favor of the appellant. A motion is now made in behalf of Daniel R. Southard, one of the appellees, to set aside the decree in this court, and to remand the case to the circuit court for further preparation and proof, upon the ground that new

and material evidence has been discovered since the case was heard and decided in that court. In support of this motion affidavits have been filed stating the evidence newly discovered, and that it was unknown to him when the case was heard in the court below.

"It is very clear that affidavits of newly discovered testimony cannot be received for such a purpose. This court must affirm or reverse upon the case as it appears in the record. We cannot look out of it for testimony to influence the judgment of this court sitting as an appellate tribunal. And, according to the practice of the court of chancery from its earliest history to the present time, no paper not before the court below can be read on the hearing of an appeal (*Eden v. Earl Bute*, 1 Bro. Par. Cas., 465; 3 Bro. Par. Cas., 546; *Studwell v. Palmer*, 5 Paige, 166)."

In *United States vs. Knight's Administrators*, 1 Black, 489, Mr. Reverdy Johnson, for the claimant, the appellee, after a decree of reversal, moved the court so far to modify its order entered therein as to remand the cause to the court below for further evidence and proceedings, and offered in support of the motion sundry affidavits to show by this new testimony that the court had fallen into error in some conclusions of fact stated in the opinion, and also that some of the testimony was not within the knowledge or power of the appellee when the case was heard in the district court, but had been discovered since. The court, by Chief Justice TANEY, refused to receive the depositions or to hear an argument upon the motion, and denied the motion upon the authority of *United States vs. Hensley*, decided at the same term, and *Russell vs. Southard*, 12 How., 139.

In *Gregory vs. Pike*, 67 Fed. Rep., 837, the circuit court of appeals, upon the authority of *Russell vs. Southard*, 12 How., 139, and other cases, refused to examine the affidavits as to the newly discovered evidence filed in support of the motion for a rehearing, saying that the clerk of the court was not even authorized to file the affidavits without leave of the court first obtained, and they could not be considered by the court.

See also *Nesley vs. Ladd*, 30 Oreg., 566, and *Tant vs. Guess*, 16 S. E. (South Carolina), 480, in which *Russell vs. Southard*, 12 How., 139, was followed and similar rulings made.

Under these authorities it would seem clear that so much of this motion as is based upon the alleged newly discovered evidence is not proper to be considered by this court.

But, even if it were proper that it should be considered, it is respectfully submitted that the alleged newly discovered evidence should not, on general principles, receive any consideration whatever. In the first place, as shown by Miss Moyers' affidavit, the discovery of the alleged letter in question was made "a few days after the argument of this case in this court." Notwithstanding this, the appellants waited until after this court had decided the case before bringing the letter to the attention of the court, thus deliberately concealing the alleged newly discovered evidence until after this court had decided the case, with the evident intention of not using it if the decision of the court should be in their favor. No explanation whatever is made of the delay in calling the matter to the attention of this court, so that this inference would seem to be a perfectly proper one. Again, if the well-known rules applicable to motions for new trials upon the ground of newly discovered evidence, or to bills of review on similar grounds, be applied to this application, the result must necessarily be its denial.

"As to the discovery of new matter, or written evidence, the law is also prudently stringent in requiring that such new matter or evidence shall clearly make the case conclusive in favor of the party seeking to use it; and, moreover, that the court shall be well satisfied that the non-discovery of it opportunely was not the result of a neglect of proper inquiry or reasonable diligence" (*Southard vs. Russell*, 16 How., p. 560).

Here we have the remarkable situation of the representatives of a defendant who admitted in his sworn answer that there was a schedule of cases attached to an agreement of partnership of which he was a party, and who based his sole defense on the ground that he had purchased the interest! of his deceased partner in the partnership assets; asking, after five years of incessant and costly litigation, and after a solemn decree had been rendered against him and affirmed by this court, to vacate that decree and all that had been done because of the discovery of a letter which had been in the defendant's possession during the whole of such period of five years and whose papers his daughter, one of the appellants, says she examined after his death "from time to time, as convenience permitted." As this court says in *Osborne vs. Mortgage Company*, 8 App. D. C., 481: "We would set a very dangerous precedent were we to hold that solemn deeds and decrees of courts could be avoided upon such testimony as this record furnishes." Still again, the alleged letter of Edmonds, now produced, is absolutely consistent with the theory that the defendant Moyers was furnished a list of cases similar to that found attached to his duplicate original of the partnership agreement. In fact, from the language of the alleged letter, "on the list I send you," it would seem to be clear that the list was enclosed in the letter produced, and yet the defendant repeatedly swore that he never had such a schedule or list. The fact that his daughter, Miss Moyers, was unable to find such a list among his effects counts nothing, for if he was capable of destroying an important paper in the Anna Hunt case, as the auditor reports that he did, he was perfectly capable of destroying such a list if he had one in his possession. The copy of the letter produced, it will be observed, is dated December 17, 1899, one year and one month prior to the time when the writer was adjudged to be a lunatic suffering from chronic mania. So little was thought by Moyers of the receipt of the letter by him that he

never seems to have even replied to it. At least Miss Moyers, according to her affidavit, has been unable to find in his letter books a copy of any reply. If the list of cases was not enclosed in the letter, or not sent on the same day as is stated in the letter it would be, surely Moyers would have written for it. The presumption, therefore, would seem to be that he received the list, and yet, as stated, he repeatedly swore that he never had one or saw one. The list of cases referred to in the letter was probably a list of additional cases which had come to Edmonds after the date of the partnership agreement; but even if the letter be construed to mean that there was no list actually attached to the partnership agreement, such fact is absolutely immaterial, if the list was subsequently furnished to Moyers. The appellants state in their motion that Moyers had certain cases on his books and had done considerable work in each of them prior to the date of this letter; but, as pointed out in the former briefs filed in this case, the entries of Moyers' books (which, by the way, are not properly before the court) are absolutely valueless for the reasons therein stated, and there is absolutely a want of testimony in this case that between the date of the partnership agreement and the date of the alleged letter Moyers received a single contract or power of attorney, or had any correspondence with any of the claimants in any of the partnership claims.

Appellants in their motion say that this alleged letter acknowledged that there were cases in the schedule which were in the hands of attorneys other than Moyers, and that the court below, as well as this court, found this to be a fact. This is not an exact statement. What was found by the auditor and the court below, and by this court, and what has been admitted all along by the appellee, is that certain cases, five or six in number, were obtained by Edmonds, turned over by him to Moyers, and their prosecution abandoned by the latter and taken up by other attorneys.

The auditor has found that the cases in question were partnership cases, without reference to the schedule in question, and this court has held that the auditor was correct in so finding, or, at least, that there was not sufficient evidence to show that he was wrong. In this state of the record there is nothing in the alleged letter which could by any possibility change the result of the case. If the proof shows that, irrespective of any schedule, the cases in question are partnership cases, what is the materiality of this alleged letter relating to a schedule? To the mind of the appellee, it simply reinforces his claim that the defendant had a list or schedule of the Edmonds cases and either lost or mislaid it or deliberately destroyed it. The testimony taken in this case supports this claim; for it clearly demonstrates that not in a single one of the cases mentioned in the list produced by the complainant as found among the effects of Edmonds did the defendant have a fee contract with the claimant.

II.

The other portion of the appellants' motion is to enlarge the mandate so as to authorize the auditor to ascertain and report the expenses paid by Moyers in the *pending* claims mentioned in these proceedings, as well as those disallowed or unsuccessful.

It is respectfully submitted that the appellants should not be allowed, after assigning as error the failure to allow expenses in rejected cases, without any mention in their brief or argument of pending cases, and after their contention with respect to the rejected cases has succeeded in this court, to claim on a motion for rehearing, for the first time, that the expenses in the pending cases should also have been allowed. If this course of the appellants is to be approved by the court, there will positively be no end to this litigation. After admitting in their brief and in the argument on their

behalf that the court below was right with regard to the pending cases, they seem to think that their success in getting an allowance in the rejected cases justifies them in asking the court to go a step further and give them something that they had not claimed. If this be allowed to be done, there would seem to be no use hereafter of assignments of error in the practice before this court, and the rule of this court requiring them would be nugatory.

In their motion the appellants referred to a pending report before the auditor, and say that in that reference the auditor rejected the claim made by the appellants for expense in the pending and unsuccessful cases. Counsel for the appellee recalls no such claim as having been made in that reference. The auditor allowed the appellants for all expenses incurred by the defendant in the cases which were embraced in the order of reference, and, by consent of the appellee, he allowed the appellants expenses in excess of the $2\frac{1}{2}$ per cent. provided for by the partnership agreement. As elsewhere stated, there is no reason why, if the suggestion made by the appellee that the decree appealed from be affirmed by this court, that an expression in the opinion that the appellants should be allowed credit for expenses in the rejected cases, the court should not re-refer the last report of the auditor to him with directions to make such an allowance. The matter is still in such shape that this may be done.

The appellants further say in their motion that, so far as is now known, there will be no further references to the auditor in said case, except the one to be made in pursuance of the mandate of this court, and if the appellants be allowed expenses in the pending claims that have not been finally disposed of, it must be done in the reference to be made in pursuance of said mandate. This statement is wholly unjustified. Appellants' counsel seems to have forgotten that there is nothing to prevent the pending report of the auditor being reopened to state the account as to the expenses in the pending

cases; and also that he expressly consented to a reference to the auditor made necessary by the failure of the auditor to consider the claim of R. W. Johnston, and that such a reference is about to be made to the auditor. In that reference all credits could be allowed to the appellants to which this court has held they are entitled. In addition to this, counsel for the appellants seems to have lost sight of the fact that the defendant expressly admitted, as the report of the auditor shows, that there were 255 cases embraced in the partnership agreement, of which 74 only were dismissed, leaving more than 150 still pending.

In view of these facts, the statement by appellants' counsel that there will be no further references to the auditor must have been made inadvertently and without due thought.

There is nothing in appellants' motion or in the written argument accompanying it to show why the court should change its ruling with respect of the expenses in the pending cases. If any of the cases which were pending when the cause was last before the auditor have since been rejected or disallowed, such cases will be deemed to be within the ruling of this court, and will be treated as rejected cases, and the appellants will be allowed such expenses as their intestate or they have incurred in their prosecution.

Respectfully submitted.

CHAS. COWLES TUCKER,
For the Appellee.